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## ART. 41.—THE POLICE OF CALCUTTA \*

### FIRE BRIGADE.

THERE was also a market establishment, costing Rs. 416 per mensem, for the inspection of weights and measures and publishing the price-current, a lock-up for males, another for females (called Kattrā), a house of correction, and a hospital for paupers at Mirzapore.

In reviewing the police of the internal thannahs, Mr. Shakspear found 113 houses under 10 Chowkidars and 6,530 under 22 in the Larkin's Lane and Pataldangah Divisions respectively. "The Chowkidars," he wrote, "have particular posts allotted to them, where they keep watch during the night; they are not allowed arms but carry sticks. In the morning they return to the thannah to report the occurrences of the night, after which, unless their attendance is required at the Police Office, they are at liberty, to go where they please. There is nothing in the appearance of these thannahs different from any other native dwelling houses; there are no arms (the usual insignia of police) to be seen, nor anything that would indicate them to a stranger to be Police Offices, or places of refuge or resort in case of danger. I would recommend that a flag should be kept hoisted at each thannah; that the Chowkidars should be dressed in uniform—turbans and waistbands—and be allowed to carry a sword or spear. In this country, where every man's house is open to robbery, it is desirable to call in the aid of fear in the prevention of petty crimes which cannot be often checked by the personal intervention of the watchman. The Upargashtee or Girdwari establishment," he explained, "are kept immediately under the eye, and reside near the residence of Mr. Blaquier, and are employed in patrolling the town at night, in order to keep the peace and see that the Chowkidars are on their watch, and likewise, in cases of emergency, in the apprehension of offenders."

The Boundary Thannahs and subordinate posts (Phandeess) are stationed at the head of every considerable inlet to the limits of Calcutta from the Chitpore Bridge to the Cooly Bazar. From this point passing the Fort to Kasheenaath Baboo's Ghat, where there is a Ghumtee or Post from the Mir Bhar thannah, there was no established boundary guard, and hence Mr. Shakspear suggested the conversion of Chandpal Ghat

thannah into a boundary-thannah, and the establishment of a new boundary-thannah at Old Fort Ghat, also a revision of beats at the rate of 100 houses\* to each Chowkidar. "But, in my humble opinion," he went on to say, "the system of police in the interior of Calcutta is radically defective. What, indeed, I would ask can be said of a police exercising control over nearly a million of people† (for the ingress of people in the day time from the environs must fully make up that number) which is supposed to be asleep all day with only one office open for the cognizance of criminal offences. Yet, if I am rightly informed, this is not an exaggerated statement of the case, for the Chowkidars, being awake throughout the night, are allowed to sleep all day or pursue their private affairs.

Mr. Shakspear then proceeded to compare the crime of Calcutta with that of the provincial towns for the year 1818 and gave the following figures :—

	Dacca.	Patna	Murshidabad.	Total.	Calcutta.
Murder ... ..	.....	.....	3	3	3
Burglary ... ..	24	8	129	161	} ‡
Theft (of Rs. 10 and upwards) ... ..	32	63	49	144	

"The number of Chowkidars," he explained, "is greater in the provincial towns, but I apprehend that the real cause of the greater efficiency of the police in those cities will be found in the superiority of the system altogether, which combines the advantages of a day and night police, acting under written instructions and well-defined responsibility." Accordingly, he suggested a reform of the Calcutta Police on the model of that established in the Mofussil towns. There were to be 12 new thannahs, each with an establishment of 1 Thanadar, 1 Mohurrir, 1 Jamadar and 15 Burkundazes.

Simultaneously with this Report, an elaborate Note on the River Police, with suggestions for its improvement, was drawn up by Sir Charles D'Oyly, the Collector of Customs. As a further aid to the police, a Rule Ordinance and Regulation was framed to legalise the apprehension and punishment of persons of evil fame resorting to, or residing within, the limits of Calcutta.

\* The number of houses was estimated at 72,000.

† This, of course, was an estimate greatly in excess of the truth.

‡ Including burglaries and all thefts, however trivial.

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The criminal law under which the Magistrates and Police acted, was the common law of England, and this, though greatly modified by subsequent enactments, still to some extent regulates police procedure in Calcutta. In 1820 the number of persons arrested was 3,305, of whom 720 were punished for felonies, and 221 for misdemeanours. The value of property stolen was set at Rs. 1,52,786, and of that recovered Rs. 26,869. Foot-pads and highway robbers infested the streets; and in 1819 Mr. Spencer deposed to having been shot at with a pistol, the ball passing through the top of his hat.

In 1822 a number of prisoners were released from the Alipore Jail by the Governor-General in person in honour of Her Majesty's birthday—an oriental mode of giving expression to public joy, which was repeated in 1887 on the occasion of the Jubilee. In 1823, the Police Office and Courts were removed to the building now occupied as the Police Office and residence of the Deputy Commissioner. This fine house was originally the residence of Mr. Palmer, the merchant-prince, whose firm failed in 1830 for the modest sum of five millions sterling, and there is a tradition that he had there entertained five successive Governors-General.

In 1825 the use of the rattan as a punishment was substituted for that of the *kora* (or whip). Flogging for both civil and criminal offences was altogether abolished by enactment a few years later.

We have now reached the time of Lord W. Bentinck's famous administration,—a period within the memory of many living persons. The year 1829 is for ever memorable for the passing of Regulation XVII, under which the cruel custom of *Sahagaman* was rendered illegal. The average number of *Satees* for the previous fifteen years was no less than 650, of which 287 belonged to the Calcutta division alone. In the same year active measures were undertaken against the Thugs and Badhaks by Major Sleeman and his devoted band of coadjutors. These miscreants had practised their horrid profession up to the very boundaries of Calcutta, and a family of Thugs was at this time residing in a house at Titagarh.

In the same year there was a police commission both in India and in England, and the result in Calcutta was the establishment of a closer supervision. The police, which had been from the year 1800 under the immediate control of Mr. Blaquiere, was in 1830 transferred into the hands of Mr. MacFarlane, who had succeeded Mr. Shakspear as Chief Magistrate, and of Captain Steel, who was appointed Superintendent under him. The functions of head of police and head of the municipality, which had hitherto been combined under the Chief Magistrate, were thenceforth separated. The office of Superintendent of Police in

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Bengal was abolished, and his police duties transferred to the Commissioners of Revenue and Circuit, who however exercised no jurisdiction in the town of Calcutta. The state of morality among the European portion of the force previous to these reforms is thus described by Mr. Shore in his famous Notes: "It would be difficult to find natives who were guilty of greater corruption and extortion than was practised by the English sergeants employed in the Calcutta police previous to the late improvements. Not only were offered bribes unhesitatingly accepted, but these men reaped a harvest from every affray or dispute that they could hear of. In such a case, one of them was soon upon the spot, and every method of intimidation was resorted to to persuade the party that was most to blame of the serious nature of the scrape he had got into. When his fears were sufficiently excited, a proposal was then made for him to give the other party a sum of money to make up the quarrel, of which the lion's share was taken by the sergeant for his good offices. . . . I am told that matters are better now; if so, it must, I imagine, be attributed, not to any increase of morality among those employed, but to the improved system of surveillance which has been introduced." Sir Edmund Ryan, too, who had every opportunity for forming a correct opinion, testified, in a charge to the jury delivered in 1832, to a great improvement in the force.

In 1835 the Calcutta Magistrates were first empowered to act singly. Hitherto, according to the ancient English custom, no criminal case could be legally tried unless at least two Justices were present. About the same time natives were first appointed to act as Honorary Magistrates for the town. In 1837 the office of Superintendent of Police in Bengal was revived by Act XXIV of that year. One Superintendent was appointed for the territories under the Government of the Presidency of Fort William, and another for the districts of the N.-W. Provinces. The powers exercised by the Commissioners of Revenue and Circuit in regard to the appointment and removal of Police Officers were at the same time withdrawn.

Mr. Halliday took this opportunity to advocate the subordination of the Calcutta Police to the Superintendent-General. "It is my opinion," he wrote, "that the Calcutta Police, like that of the rest of the country, should be placed under the Superintendent-General, and form part of the general system. For this the Calcutta Police is obviously well adapted, as it is in effect the very system which I propose for the provinces, and could not therefore fail to amalgamate with it successfully. Separated, the two systems of police (that of Calcutta and the Mofussil) will, whenever they come in contact, injure each other, as in practice they now do. United they would, in a very high

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degree, assist each other's efficiency. In the districts which surround Calcutta, the greater crimes all emanate from the capital, and the Magistrates of the neighbouring zillahs well know the secure retreat which Calcutta affords to dacoits after the commission of robberies in the suburbs. The Superintendent-General of the Mofussil Police must be, for the most part, powerless in Hooghly, Midnapur, Baidwan, Nuddea, Jessore, Baraset, and the 24-Pergunnahs, unless he be at the same time Superintendent-General of the Calcutta Police. To be subject to his authority would in no degree weaken the latter, and the alteration would give an incalculable addition of power to the machinery of the former." The suggestion was not, however, acted on. In 1839 the police force of Calcutta was as follows:—

	Thanadars.	Nabs.	Chowkidars.	Jamadars.	Nabs.	Barkundazes.	Total.
Night watch ... ..	37	37	796	...	...	...	870
Day watch ... ..	...	74	444	...	...	...	518
Sidwal or Boundary Guard ... ..	...	...	..	7	21	220	248
Town Guard ... ..	..	..	...	1	9	118	128
Gudiwari and Upargashti } Guards	...	..	..	1	9	73	83
Total ... ..	37	111	1,240	9	39	411	1,847

The system in force was that introduced in 1830 with the additional precaution of enquiry every morning by Chowkidars at the door of each house as to whether all had been well during the night. The number of felonies in 1839 was 1,937, and of misdemeanours 2,934; 1,848 persons were arrested and 667 punished. There were 873 conservancy cases. The number had been larger, but had fallen off owing to the discouragement of prosecutors. The total number of criminals confined in the Calcutta Jail at the close of the year 1838 was 64, and in the House of Correction 84.

Colonies of Badhak dacoits from Oude had settled down close to Calcutta where they were carrying on their depredations. Mr. F. C. Smith, the very able Superintendent of Police in Bengal, discovered abundant proof that an European, an extensive landholder, had collected them upon his estate, precisely as was the wont of the native landholders in the Western Provinces, *vis.*, by giving security for their future good behaviour

to the Judges and Magistrates and procuring their release from confinement. And there was too much reason to believe that, like them, he had employed them, or acquiesced in their employment by others, for the purpose of committing crimes. By a lucky accident Mr. Patton, the Magistrate of the 24-Pergunnahs, seized a gang of them with all their booty immediately after they had committed in Calcutta a dacoity attended with murder. At this time there was not a single street lamp in Calcutta. People of the upper class travelled mostly in palkees, and were lighted on their way by torches or hand-lanterns. The first improvement was effected by compelling the occupiers of houses to put up ordinary lanterns at their gates.

In 1845 Mr. Blaquiére retired, and "his distinguished services on the bench and in other departments of the public service, during a period of nearly half a century" were rewarded with a liberal pension for the remainder of his life. At the time of his retirement he was Senior Magistrate. The number of stipendiaries was then reduced to two, and the town divided between them. They were both barristers until 1852, when Haro Chander Ghose, the first native stipendiary Magistrate of Calcutta, was appointed.

At the same time (1845) the Supreme Government ordered a thorough re-organization of the police force, and Mr. Patton, then Chief Magistrate, was directed to abolish the existing force, and to organize in its stead a force similar to the London Police, with such modifications as the conditions of this country required. Accordingly, 31 thannahs and 21 phandeés were abolished, the town divided into three divisions, each under a Deputy Superintendent, and the divisions into six sections or sub-stations, making 18 in all. Thirty-six Inspectors and Darogahs were appointed, those drawing over Rs. 50 a month being promoted and dismissed only with the approval of Government. A suitable number of Jamadars and Chowkidars was also appointed. The residences of the Deputy Superintendents were called "Station Homes" and of Inspectors "Sections." There was also a Superintendent who resided at the Central Office, and the Chief Magistrate at the head of all. Nevertheless the discipline under this régime does not appear to have been very strict. Inspectors and town sergeants were in the habit of frequenting the taverns in Radha Bazar during the day, and drinking and associating with low classes of people. Vari-coloured clothes were worn in place of uniform, and the town sergeants especially were very slovenly in appearance. Smoking cigars on duty in the day time was a common practice. Singing on beat was so customary as to call for a special rule prohibiting it. Collisions between the police and the military necessitated rules still more clearly defining the limits

of their respective authority. On the 14th September 1850, a native police constable was killed by a European soldier striking him with a club. The club, it appeared, was loaded with lead, the end and handle being covered with tin. From that time the native constables were forbidden to use any other weapon than "a common staff of a uniform size." Very little attempt was made to keep order in the streets. Kite-flying was in vogue, and in Clive Street vendors of goods erected their stalls in the middle of the road. The streets were dimly lighted with oil lamps far apart, and it was not till 1857 that gas was introduced, and then only into the main streets and places. By day the air resounded with the shrill monotonous squeak of ungreased cart-wheels, and jackals made night hideous. Bloated corpses floated by hundreds on the bosom of the Ganges, and the cruel rite of the *charak* was celebrated in the suburbs.\* The town was liable to invasions of professional beggars owing to the practice of indiscriminate distribution of alms at *shrads*. The number of prostitutes openly practising their vocation was in 1852, after very careful enquiry, estimated at 12,419. Bow Bazar was to the sailors in Calcutta what Radcliff Highway was to the same class in London. The whole locality was honeycombed with dens of iniquity. Chunagulli was the head-centre of vice in every form. The sailors looked upon the place as their own. The street was hung with flags of all nations, and at night was a scene of revelry and debauchery. Parties of drunken sailors might be seen driving the police before them. Cutting and wounding cases became so common that it was necessary to disarm seamen of their knives. Here is a description of a disturbance of a kind which was common enough in those days:—

"On the 18th February 1855, a party of sailors, ripe for mischief, were parading a part of the town most unfrequently visited by persons of their class, and were amusing themselves by striking more or less every person passing them, or destroying the articles (water-jars, &c.,) they carried. At length they entered a liquor shop and called for liquor, which, on getting, they refused to pay for, at the same time destroying the bottle it was served in, by throwing it at the vendor and decamping. They came to the part of the town inhabited by Malay lascars, men who are not disposed to quietly endure such rough usage, and had assembled

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\* [Hook-swinging was put a stop to in Bengal by Sir Cecil Beadon in 1864, and cartmen compelled by enactment to grease their wheels a few years later. The hooks are now passed through the clothes at the back. It is said that last year hooks were actually passed through the flesh in French Bilasore (Farash-danga).—ED.]



to resent it. Sheikh Sonaoolla, a Police Chowkidar on the spot, seeing that a collision was imminent, sent for assistance. The sailors meanwhile armed themselves from a fire-wood shop which happened to be at hand. By this time a party of police came up, when one of the sailors, by name Snownan, struck Sheikh Sonaoolla on the head with a heavy piece of wood and killed him. Snownan was arrested and tried for manslaughter, but was acquitted on the ground that he acted in self-defence." The number of false charges preferred was very great. Jewellers falsely reported the theft of gold and silver entrusted to them to make up as ornaments; pawn-brokers, of valuables pledged far below their worth; *dhobees*, of clothes given them to wash. Masters unjustly charged with theft servants, who, sick with long deferred hope of pay, had at length unceremoniously left them. Mistresses accused their faithless paramours of theft in order to induce them to return to their caresses. False charges of burglary were often supported by breaking a hole through the wall, the hole not unfrequently bearing unmistakeable signs of having been cut, for the sake of secrecy, from the inside. The Magistrates, it was complained, cried on the side of leniency, and could seldom be persuaded to convict persons of laying false charges.

In 1851 Calcutta was "literally swarming" with dacoits who poured into the neighbouring districts and committed gang robberies nightly, and this state of things continued until again a special Commissioner was appointed for the suppression of dacoity, and made "a clean sweep of the whole," having them transported for life. An organised system of shop-lifting by Sanoreas from the Upper Provinces was also discovered and put a stop to. These clever day-light thieves were then prosecuting their calling in the remotest parts of Hindustan.

The Chief Magistrate Mr. Elliot, who succeeded Mr. Patton, complained that he had to select his native constables from a mass of cooly-like individuals who flocked to his office from all parts of the country, absolutely ignorant of their duties, quite unknown to him, and without a certificate of any description to show who they were or whence they came. There was no law by which he could enlist them for any given period or otherwise bind them to the Government service. They were worked to a degree to which no *sipahi* in the country would submit, whilst three-fourths of them were paid at the low rate of Rs. 5 per mensem and the rest at Rs. 6. A quarter of the force was changed every year by resignations, dismissals, or deaths. The prospect of a pension, which had been held out to the force a few years before as an inducement to serve on, was found powerless to effect its object.

Various Acts, Rules, Ordinances, and Bye-laws were passed for the better government of the Police Force between 1845 and 1856, when all were repealed by Act XIII of the latter year. This Act was framed for the better regulation of the police, not only of Calcutta, but of the towns of Madras and Bombay also. The force appointed in Calcutta under this Act consisted of a Commissioner (Mr. Wauchope), a Deputy Commissioner (Mr. Roberts), 3 Superintendents, 30 Inspectors, 10 Town Sergeants, 82 Native Officers, 1,393 Constables and 6 Sowars: there were also 12 Manjhees and 92 Dandeers for the river. A portion of the force was set apart as a reserve, an arrangement which was an innovation. A roster, allotting one-third of the force for day, and two-thirds for night duty, with an equal division of day and night duty among the men, was introduced. The uniform was much improved. The Chowkidars were dressed in white chapkans, with red plate-like turbans and kamar-bands. Rattles were discarded and dark-lanterns adopted. The officers' dress was pretty much the same as at present, except that the Darogahs and Jamadars wore swords. Subsequently, a numerical reduction was made of 80 constables in order to improve the position of the rest. The Reserve Force was diminished, and the number of Town Sergeants and European Constables increased to 35 in order to cope with a great accession of the loitering population which took place during the Mutiny. It was ascertained that there were upwards of three hundred Europeans and Americans in Calcutta without employment, and many of them old offenders. These waifs and strays of humanity caused great annoyance by waylaying and robbing gentlemen on the *maidan*—the fogs of the cold season very much favouring this form of crime. The evil was not entirely suppressed till many years afterwards, when the passing of the Vagrancy Act and establishment of a work-house put a stop to it. It was, however, much ameliorated, and writing in 1860, Mr. Wauchope said: "Three years ago there were several streets in Calcutta where it was almost impossible for a respectable person to appear in the evening without being insulted or assaulted by Europeans. The same streets are now perfectly quiet, and though numbers of seamen are seen there, few are drunk, and they are almost invariably well behaved; and this is the more extraordinary considering the enormous number of Europeans who have been in Calcutta during the last year, most of them, at first, with abundance of money to spend on all sorts of debauchery." This improvement was attributed partly to an order issued in 1857 closing all liquor shops at 5 P. M., and partly to the strong force of European police employed. Calcutta also suffered much from the depredations of burglars residing

in the suburbs, and upon the recommendation of the Commissioner, this tract was in 1861 brought within his jurisdiction. Most of the burglaries reported from the Native quarters of the town were of a simple description, the entry being effected by cutting the string fastenings of a mat door, and the plundered property consisting of a few brass vessels. In the European quarter they were, of a more formidable kind, and sometimes perpetrated by Europeans. An American named Hawkins caused quite a panic by his daring feats in this direction. Crime, according to the Commissioner, fluctuated very much in character. Sometimes there was an outbreak of one kind of crime, at another time of another kind. One year hackery-men stole the loads entrusted to them. In another year coolies appropriated property given to them for conveyance, and in the particular year of which he was writing, there was an unusually large number of domestic thefts. Servants were hired without certificates or enquiry, and, taking advantage of this laxity, professional thieves used to take service as table attendants with the sole object of robbing their masters. One celebrated thief served as Khitmutgai and robbed in no less than seven houses before he was detected. In 1886 domestic thefts took a new form, and it was discovered that gangs of Rajwars from Gaya annually visited Calcutta ostensibly to take service as punkah-pullers, but in reality to rob their employers.

A more serious form of crime in vogue at this time was the drugging and robbing of prostitutes for the sake of their ornaments. There were men in Calcutta, corresponding to the road-poisoners in the Mofussil, but acting on a different system, who made a profession of this nefarious practice, and very frequently killed their victim.

In 1858 there occurred the famous murder of Leah, the wife of Mr. Judah a merchant, who was absent at the time in China. Circumstantial evidence of the most damning kind was produced against two men named Ezekiel and Nusseem, and a verdict of wilful murder was found against both of them by the Coroner's jury, but they were acquitted by the Supreme Court after a trial which lasted six days. Nine years afterwards, almost to a day, there occurred another murder in the same family, which, like the above, remained undetected and unavenged.

When the first of these murders occurred, there were no police charged especially with the detection of crime. There was indeed a class of persons, not of the police, but employed by them, who professed to find out the perpetrators of robberies and murders, and Mr. Wauchope writing in 1861 said, that "getting rid of these spics was one of the greatest difficulties

he had to encounter. The police relied entirely upon them, with the usual result. Their operations were calculated to defeat justice by making their bread out of the blood of the population. Their object was to secure rewards, not to suppress crimes; and it was their deliberate practice to allow robberies to proceed which they might have prevented if they had liked, and, at the same time, they took care not to denounce the influential members of gangs, or in fact any others if they paid better than the police." This terrible evil is sure to come into existence in every police force controlled by officers too anxious for a display of detective results. It is most difficult to eradicate, and Mr. Wauchope, though he may have scotched it, certainly did not exterminate it, for only a few years later, unmistakeable signs of its existence were observable. Mr. Wauchope had the reputation of being one of the best, perhaps *the* best police officer Calcutta has ever seen. It may, therefore, be interesting to know what his views on the subject of detection were, and upon what lines he worked. These are his own words: "Man, by his original nature, pursues his fellow man with greater zeal and avidity than any other prey; consequently, I find that among the large number of men admitted into the police, there are always a few who show before long an extraordinary propensity towards this pursuit; others again remain for years without rendering any assistance in the detection of crime. When a man has done good work in this way he is promoted, and his services are employed where they can be most useful. They generally adopt some particular line. For instance, one is intimately acquainted with the operations of burglars, another with pickpockets and so on; therefore, if I find thefts by pickpockets increasing at any place of public resort, I send to that neighbourhood officers acquainted with these persons, and an immediate stop is put to that description of crime; or if robberies by couples increase in any part of the town, the officers whose particular line I know that to be, are stationed in that part of the town, and invariably with success." . . . . It is admitted by all that there are no thieves in the world so expert as those in India, and there is no mind so favourably constituted for the detection of crime as that of a native, and particularly that of a native police officer, properly trained, who has for years been employed on this pursuit and on this duty. If a theft has been committed by a professional, an expert police officer will be able to say at once by which of the various gangs, or, I should rather say society, of professionals in Calcutta it has been committed. Each of these gangs has quite a different method of carrying on business, but they are generally so dexterous in getting rid of the stolen goods, and

make their arrangements so well beforehand, that although the thieves who committed the theft are known, it is very often difficult to procure a conviction against them. Information regarding robberies is procured frequently from members of the same fraternity, and very often by women urged on by jealousy. In the trials before the Magistrates and Supreme Court all appears simple and easy. The police proceed to a certain spot, find the goods, and arrest certain persons who are tried and convicted; but very few people know the secrecy, tact, and exertion required in obtaining and following up a clue. The names of those who give information are rarely or ever disclosed; in fact, if such was to be allowed, the remainder of the gang would probably take steps to prevent the same person playing the traitor again, and the fear of this would effectually prevent our ever obtaining any information. Writing many years later, at the close of his second term as head of the Calcutta police, Mr. Wauchope repeated: "Regular informers are worse than useless. If a man gives information once, it is improbable that he will do it again, as he is more likely to betray the police than his companions. Of the hundreds of informers with whom I have had to deal in the course of my police experience, only three never deceived me. One was Sudda, a Bombay man, the second was Srinath, *alias* Chenoo Kaist, a native of Calcutta, and the third is one whose name it is unnecessary to mention. Where they picked up their information I never knew and never asked, but very few offences were committed within twenty or thirty miles of Calcutta regarding which one or other of the three did not know something, though, strange to say, none of them was ever known to give truthful information to any but myself."

Regarding the material with which he had to work Mr. Wauchope wrote: "I have found by experience that the natives of Lower Bengal, in the neighbourhood of Calcutta, do not as a rule make efficient policemen. They have neither the strength nor courage for this purpose. The Hindoos, who constitute about two-thirds of the Calcutta Police Force, are chiefly up-countrymen, and a very large proportion of the Mahomedans are from the Furreedpore district. It has been said—but in my opinion without reason—that police officers should always, if possible, be natives of the country where they serve. The ordinary police constables should be superior in strength to those against whom it is his duty to watch. He requires the use of his eyes more than of his tongue, and even if he arrives in Calcutta ignorant of Bengali, he is always able to make himself understood. A riot by a Calcutta mob is now utterly impossible. Composed of numerous races, without cohesion or a single feeling in common, although made up of doubtful

characters from every part of India, it would be unable for a moment to withstand fifteen hundred men all drilled and trained to act in concert."

Mr. Wauchope appears, however, to have modified his views in later years, for when he returned to the police in 1873, finding a fine body of well drilled up-country men, he expressed it as his experience, that "policemen from the North-Western Provinces and Behar, though strong and pleasant to look at, were most unobservant, and when drilled to be something like soldiers, became perfect machines and unfit for ordinary police purposes." A certain amount of drill he admitted to be necessary in order to enable police officers to act in concert. He said that, having seen and read a good deal of police all over the world, his impression was that the failure of police as detective officers was usually caused by an excessive infusion of the military element, "for a man cannot be a good soldier and a skilful police officer." He recommended the enlistment of a greater number of Bengalees in the force, but admitted that it was no easy matter to procure men willing to submit to the strict discipline and hard work they would have to undergo. The best officers for ordinary purposes were, he thought, Mahomedans from Eastern Bengal, "for they are, as a rule, shrewd, intelligent, and possessed of a considerable amount of personal courage." For purposes of detection he wanted no better material than he possessed, for, in his opinion, "no men make better detectives than Bengalees. They are shrewd, calculating and patient to a degree, and equal to any detectives in the world." He thought that a good deal of nonsense was spoken and written, in romances and elsewhere about detectives, and that in fact a good detective was merely a man of considerable shrewdness, accustomed to crime, and able "to put two and two together." In 1873, with a view to give effect to Mr. Wauchope's views, Mr. Hogg, who had returned to the Commissionership, sent officers into the districts of Jessore and Faridpur to recruit for the Calcutta Police, and about 10 men of these districts were enlisted. Half of them, however, almost at once disappeared. "Some disliked the hard work, some were afraid of the sahibs, others of the solitary night work, and of those left, few were physically well fitted for watch and ward." The Government, at whose desire the experiment was made, accepted it as an axiom that in a populous city where an organised system of watch is necessary, the up-country policeman will be found the better officer for the prevention of crime, but there are many qualities in the Bengalee which can be called into use for police purposes, and especially his capacity for the detection of crime. There is, in short, room for both classes in the Calcutta Police,

and neither could safely be dispensed with. From that time the enlistment of Bengalees has been principally for the purposes of enquiry into crime. Native officers of the higher ranks have been introduced and have been placed in charge of sections with a considerable amount of success, especially in certain parts of the suburbs peopled almost wholly by Bengalees. The conclusion that the up-country man is a more vigilant and trustworthy watchman than the Bengalee had long before been arrived at by the Bengalees themselves, who almost invariably, both in town and country, employ them in that capacity as durwans, &c., in preference to their own countrymen. I have dealt with this subject at some length, as it is one about which there has been great diversity of opinion among experts, and which is intimately connected with the well-being of the force. It is, moreover, the point in which the Calcutta Police differs most widely from the police of every other great city in the world. Mr. Wauchop's views are entitled to the utmost consideration and respect, for, as before said, he was not only unrivalled as a City Police Officer, but had many years' experience as a District Magistrate and Judge, and was an active member of the Police Commission of 1860. This Commission, though directed to make a comprehensive enquiry into police establishments throughout India, did not concern itself much with the police of the Presidency towns, which were fairly efficient bodies, but confined its recommendations for the most part to the Mofussil police which was in sad need of reform; and the immediate outcome of its deliberations was Act V of 1861, which was applicable only to the district forces. The main change affecting Calcutta was the transfer of the police of Howrah and the suburbs to the jurisdiction of the Commissioner of the Calcutta Police. Howrah was, however, almost immediately re-transferred and brought under the operation of the General Police Act just mentioned. The Commissioner of Police had, under the arrangements following the enactment of Act XIII of 1856, become President of the Municipality. His colleagues were Colonel (afterwards 'Sir') Henry Thuillier, and Baron Dowleas, the three being known as the 'triumvirate'. In 1862 the control of Municipal affairs was entrusted to the Justices for the town who formed a corporate body, with Mr. Schallch at their head.

In 1864 Colonel Bruce, another member of the Police Commission of 1860, was deputed by the Government of India to overhaul, *inter alia*, the Calcutta Police Force, and some further reductions were found feasible. These were not of an extensive nature, and by a re-distribution of the men it was found at the same time possible to provide an extra constable

## THE POLICE OF CALCUTTA

for every six beats, an arrangement which had much to recommend it. The river police, which appeared to be in league with salt smugglers, was entirely re-organized.

The offices of Commissioner of Police and Chief of the Municipality were, at the urgent request of Mr. Schalach supported by Colonel Bruce, again combined, and Mr. Schalach was the first officer to hold the dual appointment. The object of the union was that by rendering "the police and the conservancy offices subject to the same head, effectual co-operation should be obtained in all grades of the services," and it was laid down by the Government that "it was not considered desirable that the Chairman, as Commissioner of Police, should occupy himself with the details of police administration, but rather that he should hold a position analogous to that of a Magistrate under Act V of 1861, and that the real administration should be vested in a Deputy Commissioner under the general direction and control of the Commissioner. This arrangement has continued to the present time, with the exception of a short period in 1872-73 immediately following the assassinations of Mr. Justice Norman and Lord Mayo, when the appointments were again temporarily separated. In 1866 Mr. Stuart Hogg became Commissioner of Police. The Calcutta Police was re-constituted, without alteration, under the provisions of Act IV (B. C.) of that year, and the tract known as the suburbs formed into a distinct police district under Act II (B. C.) of the same year, but remaining under the jurisdiction of the Commissioner of the Calcutta Police. The arrangement was a very clumsy one, and the laws regulating the police in the two areas became very complicated, so much so that for years it was found convenient to ignore many of the provisions of the Code of Criminal Procedure which was in force in the suburbs but not in the city. In 1882 this Code was amended so as to suit the requirements of both town and suburbs. One of the most important amendments was the vesting in Calcutta Magistrates the power to demand from suspicious characters and habitual offenders security for good behaviour. This very necessary power they had not hitherto possessed. Since the passing of the Police Acts of 1866 the constitution of the force has been little, if at all, altered. The principal changes made were the infusion of a stronger Bengalee element as already related; an increase in the pay of the constables; improvement of the uniform by the substitution of the present more picturesque head-dress for the old flat Khitmutgai-like turban, and of a leather waist-belt bearing a brass-plate with the number of the wearer and the letter of the section to which he belonged for the red kamaiband; and a re-distribution of the force so as to provide



a small body of detectives under a Superintendent in both the town and suburbs.

This last-mentioned arrangement—which took place in 1868 consequent upon the failure of the police to detect the second murder in the Jewish family—was, after two years' trial declared to be "undoubtedly a great improvement on the old one. All important cases are investigated by the most competent officers in the force, and receive an amount of care and attention which it was impossible that inspectors in charge of sections could devote to them without neglecting their other multifarious duties. The Detective Department has throughout worked satisfactorily in conjunction with the regular police, and there have been no signs of jealousy or antagonism beyond that proper feeling of emulation which should actuate all good police officers. The two work together in perfect harmony, and any credit for general results must be divided equally between them." Such was the opinion of Mr. Hogg, the author of the system. We shall see further on what Mr. Wauchope thought of this arrangement.

The number of town sergeants and European constables at this time was sixty. They were so badly paid, and so little able to withstand the numerous temptations falling in their way, that in one year there were no less than 107 changes in this small body. To remedy this Mr. Hogg reduced the number to fifty, and distributed the saving so as to improve their position. The result was as expected, that better men were obtained and remained longer in the force; but changes were still more frequent than was desirable. In 1872, after the assassination of Lord Mayo, as before mentioned, the offices of Commissioner of Police and Chairman of the Justices were temporarily separated, and Mr. Wauchope was again placed in charge of the former. His first step was to abolish the recently formed detective forces and to revert to the old arrangement, keeping, however, a few picked men for detective purposes under his own personal direction at head-quarters. He justified this retrogression in the following words: "Since 1868 the inspectors of police sections had been brought into immediate relation with the Commissioner and Deputy Commissioner. For purposes of supervision, two Superintendents only had been retained, one at the head of the city, and the other of the suburban Police, while there was a special detective department under a special superintendent to deal with heinous crime. I did not find this system work well. The local inspectors finding that in all serious cases the detective department took all the credit, had become careless and indifferent about crime; while the detective department, being practically of little use without local knowledge and assistance, worked often in the dark with

very dubious results." He placed the city of Calcutta under three, and the suburbs under two Superintendents, who were responsible for both crimes and discipline in their respective divisions, and after a year reported, just as Mr. Hogg had done, that his own system was working smoothly and efficiently. "The regular Police," he wrote, "have I think improved in detective ability, and the small establishment of detective officers under my own immediate control have proved themselves to be extremely useful on various occasions, and I have, through them, means of obtaining information regarding persons and things which I could not have without them. Formerly the detective force was most unpopular, as the members of it were constantly harassed by being deputed on enquiries into every sort of offence in all parts of the town and suburbs, whereas now, their duties are comparatively light and agreeable to officers who take a pleasure—as a good officer must—in the detection of crime." Two special difficulties Mr. Wauchope had to encounter: one, a tendency of detectives to get on a wrong scent, and then perversely seize upon every piece of evidence to strengthen their false position, neglecting all things that might lead them to a different conclusion; and another, a desire to justify themselves in the eyes of the world by publishing abroad all they knew. The latter was checked by refusing to promote or reward any officer who neglected the first qualification of a police officer, secrecy, and trumpeted his own praises. The former he found more difficult to deal with.

In 1868, the "Contagious Diseases Act" had been introduced into Calcutta and worked by the police. Regarding it from a police point of view, Mr. Wauchope remarked that previous to its introduction very little was known to the police of the class of women to which it was applicable. "Men visited them at all times, and had every opportunity of getting away without being suspected after committing murder and robbery. But now the prostitutes, and every particular regarding them and their visitors, are well known to the police; they are considered to be under the especial protection of the police; and I am satisfied that it is owing very much to this, that since the Contagious Diseases Act has been vigorously worked in Calcutta, there have been so few murders of prostitutes. It seems to me that even if Act XIV had failed in every other respect, this fact—and I fully believe it to be a fact—would be a good reason for its continuance in Calcutta." The Act was repealed in Calcutta in 1884, and so far, their appears to have been no revival of this class of murders formerly so common. With a view to check crime committed outside the boundaries of Calcutta by persons residing within the town, Mr. Wauchope recommended

the extension of the jurisdiction of the Commissioner of Calcutta Police so as to form a large metropolitan circle. This he thought most especially necessary in the case of Howrah, which, as we have seen, was taken into the Calcutta circle, and almost immediately afterwards excluded in the year 1861, "for I know," he urged, "that during the period of dark nights in each month, a number of professional burglars go over there and return when there is moonlight; what they do there it is impossible for me to say, but I imagine they cross the river with no good intention, and probably not without wrongful loss to others." How they got there must have been still more mysterious, for Mr. Wauchope had a method by which he checked the vagrant tendencies of dangerous characters—a method which, though hardly suitable for mention in an Administration Report, was, nevertheless, evidently effectual. The method was this: On the last day of the moon he directed the inspectors of all the sections to bring before him the known or suspected burglars of their respective circles. He would then ask the inspector of B Section whether he knew the antecedents of the burglars of A. Section, and if, as was expected, he replied that he did not, they were transferred to his custody for 24 hours for enquiry; and on the following morning were similarly passed on to Section C. The burglars of Section B. were similarly transferred to Section C, and so on through all the Sections. There were about fourteen Sections in the town, so by the time the burglars had visited all, the moon—the enemy of nocturnal thieves—had again begun to shed her protective rays upon the sleeping city. Russian-looking foreigners from the other side of the N.-W. frontier were dispatched *Thāna rāhdūri*, that is, from one police station to another to Peshawur. This expedient, involving as it did several months of police custody, did not meet with the approval of the authorities in the Upper Provinces, and was put a stop to by Government. The Commissioner of Police was, of course, vested with Magisterial powers or he could not have acted in this manner. Some years later a question having arisen as to whether a confession recorded by the Deputy-Commissioner could be received in evidence, the High Court decided in the negative, and the Magisterial powers of the Commissioner and Deputy-Commissioner were much restricted. In 1874 the offices of Chairman and Commissioner were, shortly after the return from furlough of Mr. Hogg, again united under that gentleman, and soon afterwards a detective force was re-formed by the withdrawal of men from divisions under one Superintendent for both town and suburbs, the divisional Superintendents being left as under Mr. Wauchope, and so things

still remain. The system of registering and supervising released convicts was greatly improved, and the police became far more successful in proving previous convictions and obtaining heavier sentences on old offenders. The frequent inadequacy of sentences up to this time amounted to a grave scandal. Thieves, who had been convicted five or six, or even ten or more times, escaped with imprisonment for six, or three months or even less. A very summary procedure in cases not committed to the Sessions tempted the Magistrates, who were vested with very inadequate powers, to dispose of cases themselves.

A further step on the road of progress was the connection of out-lying stations with the central offices by means of telephonic communication. A steam launch, too, was procured as an aid to the River police. The difficulty of regulating the traffic in the narrow approaches to the recently constructed Howrah bridge, was yearly becoming greater, and the police authorities were at their wits end for some means of preventing obstruction. Moreover the occasional visits of royal personages were making greater demands on the energies of the force than it was accustomed or equal to. With a view to relief, a small and well-appointed body of European and mounted police was organised, and has become, if not the most useful, at any rate the most ornamental branch of the force. A radical cure for the obstruction nuisance will be the opening of the new central road from Sealdah to the Howrah bridge. This will do more in the way of securing order in the streets than any number of mounted or Government policemen.

The question as to the separation or union of the appointments of Chief of the Police and of the Municipality has all along been a much vexed one. Mr. Schalch's views have already been given. Since these were expressed twenty-four years have elapsed, and we can now point to the relations between the Commissioner of Police and Corporation in both Bombay and Madras as proof that union is not indispensable to harmony, and to the statistics of nuisance cases in those cities as demonstration that separation does not necessarily involve neglect of conservancy duties. On the other hand, with the appointments united, his municipal work renders it impossible for the Commissioner to have much knowledge of the force or take much part in its management. He becomes the nominal, whilst the Deputy-Commissioner is the real head of the force, and responsibility cannot be fixed, and the administration is consequently weakened. Moreover, the arrangement involves an injustice. It is unjust to the officer immediately in charge of a great body like the Calcutta police, and practically responsible for its working, that he

should not have the full emoluments and name and title of the office. This view of the case has of late years been gaining ground, and was adopted by the framers of the new Municipal Bill for the amalgamation of the town and suburbs, which has recently become law. The point was not, however, carried without opposition, the principal advocate of the union system being, as before, the Chairman of the Justices, and one of the arguments used, that the dissociation of the offices would have the effect of injuring the prestige of the Chairman of the Corporation. His Honour the Lieutenant-Governor fortunately held an opposite view and, in a telling speech, laid stress upon the inconvenience and danger of a system under which, in case of a crisis, when some action was to be taken within half an hour or an hour, the person to be addressed was not the person to act. Representations in favour of the change had, moreover, been made by the Bengal Chamber of Commerce, the Defence Association, and the Anglo-Indian Association, and, in short, public opinion was almost universally in its favour. So we may now look to seeing the separation permanently made within the course of the next few months. The police of Calcutta and the suburbs will thenceforth be wholly paid by Government as in the Mofussil. It will then only remain to re-cast the Police Acts, so as to consolidate the two forces, town and suburban, into one body.

A. H. GILES,

*Deputy Inspector-General of Police.*

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accurate measure of justice has not been conceded to the deprived proprietor. The time, therefore, appears to have arrived when, without unduly challenging the good faith of the deprived landowners or the force which is put in motion for taking their own from them on the ground of public convenience and overpowering necessity, the whole question may be broadly approached in a critical spirit for the purpose of utilising the lessons which are to be learned from the past, and drawing therefrom suggestions for future amendment or reform.

In the first place it is a fallacy to say that legislation on this subject in India has been, in any true sense, based upon the principles which have been established and acted on in England, or that the law and practice in the latter country have been adopted or actually carried out in India. The analogy, when tested by experience and practice, has proved to be only fanciful. As regards the machinery itself, the cases are so different, that no one would presume to say that anything more than a resemblance of a distant character exists between the assessment by surveyors or arbitrators in England, and that by the Collector, followed by the judge and assessors in this country. The whole spirit and purpose in the one case differs from the intention in the other, as will presently be pointed out. And as regards the principles which have to be applied, and the considerations which are to be regarded or disregarded (as the case may be) in computing and measuring value in cases under the Land Acquisition Act, it may well be doubted whether these principles are more than imperfectly understood and roughly applied by those who have to administer the Act, and whether the Act does, in effect, as claimed by its originators and authors, state in a clear or a comprehensive form the law prescribed by the English Legislature as laid down by the English judge.

The interference by the State with the right of private property has, during the present century, been carried to an extent which at first sight seems incompatible with modern liberal principles. That the sovereign authority in any country is entitled, by virtue of its *eminent domain* to regard itself as the virtual possessor of all the land of its subjects, who, in their turn can only hold an estate—of various degrees of ownership in the property—which they have come to deal with and to regard as their own, is one of the fictions upon which the fabric of the English law in common with that of other countries, rests. When, however, this principle is carried to its ultimate conclusions, and the landholder finds himself deprived of that which he has always regarded as an unassailable investment

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\* Vide Mr. Strachey's remarks in introducing the Bill.

for his capital, over which he was in the habit of exercising a *dominium* which could be interfered with by nobody, he naturally expects to receive damages of an exemplary kind, and complains if the value which he sets upon his property is not returned to him to the uttermost farthing.

The construction and extension of railways in England has caused the principles involved to be carefully considered and methodised. With the growth of large towns, State interference of various kinds, principally with reference to railways, municipal requirements, education, and licensing has made free inroads upon the liberty of the subject, and has imposed certain restrictions upon the full enjoyment of his property; and from time to time, whenever it has become necessary for the enjoyment, health, or comfort of the inhabitants to construct new streets, to build board schools or water works, or in other ways to acquire the surface or subsoil of the land for the purpose of laying down water-pipes or lines of railway, it has come to be understood that private rights must give way to the requirements of the public at large, and that the owner of land, though he is entitled to be liberally dealt with in respect of compulsory acquisitions, is in no better position than he would have been if his land had not been taken from him, and that all the legislature will give him is a full indemnity and compensation in respect of his property. Whenever, therefore, any body of persons succeed in shewing that the enterprise they are engaged in is one, by which advantage will accrue to the public at large, they can claim to be invested with large powers to interfere with the right of private property by Act of Parliament or other authority from the Legislature.

Acts of this description, it has been held, must be treated as *contracts* between the company or body of persons who have the right so to acquire land, and the Legislature itself. In India, where private enterprise is comparatively rare land is more frequently acquired by the Government itself. The Government takes the land, and the Government sees that it is taken according to law. The private individual, where land is taken, stands, therefore, upon his legal rights, and is justified in demanding that the Government should compensate him for what he loses. The early law on this subject is contained in a Regulation of the year 1824, which provided that, in the event of the Government tender being rejected, the compensation was to be assessed by four arbitrators, who chose an umpire; but all questions of title or apportionment were to be decided by the courts, and the costs of the arbitration were to be paid by the Government. The arbitration itself was final, except that it might be impeached on the ground of partiality or corruption. These provisions were extended and applied generally

in Bengal by Act XLII of 1850. In Bombay an Act of 1839 provided for a jury of twelve indifferent men who decided the amount of compensation, if the surveyors' estimate was not accepted. Similarly, in Madras, arbitrators were authorised to determine questions of title as well as the amount of compensation.

General Acts\* were afterwards passed, applicable to the whole of India, which referred the whole question of compensation to arbitrators, whose award was liable to be set aside by suit on the ground of misconduct.

The present Act is a reversal of the policy of the old law, which was more or less identical in intention with the English enactments, Government influence being, in theory at least, absolutely excluded by the employment exclusively of independent arbitrators. The English Lands Clauses Consolidation Act of 1845, with its train of attendant legislation, still adheres to the old principle of trusting to the integrity of independent valuers. By these Acts, compensation is assessed in various ways, according to the nature of the case:—

1. By surveyors ;
2. By justices ;
3. By arbitration ; and
4. By juries.

With respect to these, it is sufficient to remark that these Acts proceed upon the theory that one portion of the public is acquiring the property of another portion, and that the public itself, or its representatives, in the person of valuers selected for their independence and special knowledge, are the best judges of what should be paid. The assessment, itself settles the amount only, and not the liability of the parties, and, where the acquiring party refuses to pay, the remedy is by action at law. The Company's powers are also more or less clearly defined by their special Act, or the general Acts usually incorporated therewith.

On examining Act X of 1870, it will be found that a clear departure from English principles has taken place. The Act falls naturally into two parts, corresponding with the two stages in the history of every contested case. In the first place the Collector issues a notification, and public notice is given of the same at convenient places in the locality where land is likely to be needed. Upon this, entry may be made in order to ascertain if the land is adapted for the purpose required, a tender being made in respect of any necessary damage done to the land. In the event of a decision being arrived at to acquire the land, a declaration is published in the local official

\* Act VI of 1857 ; Act II of 1861 ; and Act XXII of 1863.



gazette, and the land is marked out (if this has not already been done in the previous proceeding) and a plan made. The Collector then issues a general notice on or near the land to the persons interested, and also a special notice on the occupier and other persons interested, and may require any person to make a statement containing the name of every other person possessing any interest in the land and the nature of such interest, and of the rents and profits derivable therefrom. A failure to comply with such requisition is punishable under the Indian Penal Code. On the day fixed, the Collector proceeds summarily to determine the amount of compensation, and tenders the same to the persons interested who have attended. If they agree with him as to the amount, an award is made to that effect; but if they are unable to agree with him, and also in various other events, the Collector is to refer the matter to the court. The second stage of the proceedings takes place before a judge and two qualified assessors, one nominated by the Collector, and the other by the persons interested. By Rule 39 of the Rules framed by the Board of Revenue, the former should be an officer of Government specially selected for that purpose. The judge and assessors then proceed to determine the amount of the compensation, taking into consideration the matters set out in Section 24 (the principles upon which compensation should be awarded). They are expressly directed to exclude from their consideration the matters mentioned in section 25. If the judge and one or both of the assessors agree as to the amount, there is no appeal from their decision. If the judge disagrees with both, his opinion prevails, subject to an appeal.

These may be said to be the general features of the Act. It is necessary to add that Sections 24 and 25 are to be read over to the assessors before they give their opinion; but that, as to points of law, or usage having the force of law, the opinion of the judge is to prevail if they differ from him. Their function is to assist the judge impartially in determining the compensation, and not to be advocates themselves.

Any one familiar with the corresponding procedure in England, on looking at the Act for the first time, would not fail to observe that an attempt has been made to combine the functions of the independent valuer, whose province is concerned solely with questions of fact, with the functions of the judge, who has the power to deal with matters of law and title, and a sort of *mixed* tribunal is the result. The system is evidently the outcome of a compromise between one party who thought, with Mr. Cowie, that compensation should be assessed by a Government Commission in a sort of extra-judicial proceeding, in which the proprietor of the land should

have no voice whatever, and the party of conservatism, who adhered to the system initiated by Regulation I of 1824 upon the English model, and which was in vogue with somewhat unsatisfactory results down to the year 1870. That system, which left the entire question of compensation in the hands of persons of respectability and impartiality, who were selected to arbitrate between the parties, was, in its practical working, found to lead to something like a robbery of the public money. It remains to be considered whether the present system of divided responsibility has given any better results,—whether the assessor, instead of being an impartial and independent adviser, has not become, in reality, an advocate of the most partial description,—whether his function is not, in practical working, to impede and embarrass the judge on the one hand, or (if he be the assessor for the Government) to aim at reducing the compensation to the lowest possible figure, and to concur with an easy complaisance in any decision that may be given in his favour, though based upon a partial view of the evidence, or a hasty conclusion as to the principles and interests involved. It is further to be considered whether, under this system, proceedings are not unduly protracted, and whether the real merits of each case are always ascertained, and whether better justice would not be done by casting upon the judge the sole responsibility of deciding the amount of compensation upon the evidence before him, with the knowledge that in every case his judgment is liable to be examined and revised upon questions of principle and upon the weight of the evidence by a higher court of competent jurisdiction.

In order to understand the kind of questions that have to be decided by these mixed tribunals, it is necessary to see what limits have been placed upon their discretion by sections 24 and 25 of the Act. It must be remembered that these sections were, in the first instance, supposed to embody the principles\* which had long been established and acted on in England; the idea being, that the law and practice of England should, so far as these principles were concerned, be adopted in the Bill. The question then arises as to the numerous decisions of importance that have since been given in the English courts upon the very principles embodied in these sections. Law does not remain stationary; and it would be easy to point to more than one instance where the views expressed by eminent judges have been adjudicated upon, and the law materially altered during the past eighteen years. There is one instance at least, where a judgment † of the House of Lords, over-ruling

\* *Vide* Mr. Sturtevant's speech in Council.

† *Ricketts v. The Metropolitan Railway Company*. L. R., 2 H. L., 175.

a judgment of the Exchequer Chamber, which in its turn overruled the Court of Queen's Bench, has been from time to time questioned by English judges, and the hope expressed that the decision, which still remains the law of the land, might be set aside by legislative interference.\* It may be said that this decision turned upon a section of the English Act;† but similar questions constantly arise in this country. It would certainly be the duty of the judge to consider the English rulings upon the point; but when the rulings are themselves conflicting, his task becomes one of some difficulty, and it is not likely that the assessors can give him much assistance. It might have been expected that judicial interpretation by the Indian Courts would have cleared up many of the difficulties; but as the matter stands, there have been very few decisions upon these sections, and judge and assessors are left to interpret them, more or less, by the light of nature.

The matters to which the judge and assessors are to give their attention in settling the compensation are four in number: the *market value* of the land; the damage caused where such land is *severed* from other land of the same proprietor; the damage sustained where other property of his, or his earnings, are *injuriouly affected* by reason of the land being taken; and lastly, any reasonable expense to which he may be put on being compelled to *change his residence*. As regards the expression "market-value," much difficulty has arisen, but it is now ordinarily taken to mean and include the price which the property would fetch if laid out in the most lucrative and advantageous way in which the proprietor could dispose of it,‡ and the price for which the land, or any part of it, or similar land in the neighbourhood, has sold on previous occasions. The capitalised rental of the property may also be taken into consideration. It must be admitted, however, that the expression "market-value" is ambiguous, and in some cases difficult of application, especially where the land in question has never come, and is never likely to come into the market, in which case it is impossible to say that it has any market value at all, and it would be unfair to measure the value of the land by the price it would fetch if put up to auction. It may be questioned whether the expression in itself is not misleading and inaccurate, as it apparently precludes any consideration of the *price* which the land would fetch or

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\* The point being whether the owner of a house, or shop, or market should have compensation for injury caused to the good-will of the same by reason of an obstacle to the traffic where none of his land is taken, and only the profits of the business are impaired.

† *Premchand Bural vs. The Collector of Calcutta*, I. L. R., 2 Cal., 103.

has fetched, and which is the only measure of what the land is worth to its owner. It has moreover been laid down by judicial authority\* that each case must be decided on its own circumstances, on the evidence, and on the nature of the property,—which is another way of saying that the expression has no tangible meaning, and which allows the utmost latitude of opinion.

As regards damage by severance and the expenses of removal to another residence, there is no particular difficulty as to what they mean. The former\* arises where one portion of a man's land is separated from another portion by reason of the acquisition, in which case it is usual to provide for "accommodation works" as a means of restoring communication between the two. In some cases, however, the acquisition of a portion of the land of a manufactory or shop† necessitates the removal of the whole to another site, or the purchase of other adjoining land, the price of which would have to be provided for under this head.

It is with regard to the third of these matters that the greatest difficulty has arisen. If the expression "market value" has given rise to the widest divergence of opinion and to not a little injustice, the expression "injuriously affecting" has opened the door to all kinds of impossible and absurd claims, while it extends an uncertain recognition to many legitimate ones. In order to arrive at any clear conclusions as to what should be considered reasonable damage under this head, and what should not it is absolutely necessary to analyse and weigh the effect of the English cases from which, though they are not always reconcilable, certain fixed principles may nevertheless be deduced. By the light of these decisions this part of the section may be construed and applied with tolerable certainty and consistency, but taken in its naked simplicity, it cannot fail to become, to an uninstructed tribunal, a patent occasion of stumbling and offence.

One principle frequently affirmed by the cases is that no compensation can be given where no action could have lain; and the ground upon which the cases proceed is that the Legislature, in taking away any rights of action which the owner would have had if the land had been taken and the works constructed without any authority, intended to give him compensation co-extensive with the right of action of which the Statute deprived him, and not to improve his position

\* *Heysham vs. Bholanauth Mullick*, 11 B. L. R., 236.

† [Section 55 of the Act (X of 1870), seems to be liberal and considerate in providing that "the Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory, or other building, if the owner desire that the whole of such house, manufactory, or building shall be so acquired."—Ed.]

beyond that. A second principle follows from the first, namely, that the right of action in respect of the deprivation for which the proprietor of land is to receive compensation, is a right of action with reference to *land* and injury to *land* alone, and not to any injury of a personal nature, although it may be indirectly connected with the enjoyment of land. Both these principles have been distinguished and departed from in particular cases, though they are affirmed by numerous rulings. As regards the first, it is of course clear, that where injury is done by works on one portion of a claimant's lands to another portion of his lands, compensation may be claimed, because the injury is to the *land*, although no right of action would exist in respect of such injury. Again, compensation may be claimed if the acquisition is *negligently* carried out, because the party acquiring land cannot lawfully do anything in excess of their powers; and if there is evidence of negligence, the owner has a new right of action in respect of it. If, however, the party acquiring land takes every reasonable precaution against injury, he cannot be made liable. Thus, a railway company will not be responsible for accidental sparks of fire falling upon the premises adjoining the line and setting fire to an adjoining dwelling. The theory of this rule is,\* that the risk is one incidental to the working of a railway, and that the damage (if any) is compensated by the public benefit which follows from the same. But, on the other hand, where a cotton mill could only be insured at an increased rate in consequence of the risk from sparks falling from trains running over other land of the proprietor which had been acquired by the railway company, it was held that the *land* having been taken by the authority of the Act of Parliament, the claimant was entitled to compensation. The second principle above mentioned here comes into operation, and it must be confessed that the distinction between injury to land taken up and injury to land not taken, but *injuriouslly* affected, is in some cases a narrow one. The rule in England apparently is that, though generally speaking, no compensation can be given unless lands are taken, and the injury exists in respect of these lands, yet, where a plaintiff can show direct substantial injury done to himself in respect of his property—though none of that property is actually acquired—he can claim compensation.

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\* [The principle is rather that a person or Company cannot be held liable in respect of what they are authorized to do by Statute. See *Vanghan vs. The Taff Railway Company*, 29 L. J., Exch. 247. The principle was applied in Madras to tanks which a zemindar is bound by law to maintain. If the banks of such a tank are washed away and cause damage, the zemindar is not liable if he has not been guilty of negligence. *Madras Railway Company vs. Zemindar of Carvetinagaram*. XIV B. L. R., 209.--Ed.]

Thus, where a stream or river is diverted from mill premises, or access to a wharf or dock is interrupted, so that the very purpose for which such mill, wharf, or dock is used, becomes defective, the owner may fairly say he has sustained some special damage. But where the access to a river or road which he enjoys in common with the rest of the public is stopped up, he cannot be said to have suffered a particular injury. So, in respect of the vibration of trains, or noise, or smoke, he has no claim to compensation, unless his premises subside or are otherwise permanently injured, in which case he can get damages for any loss that can be foreseen at the time of the investigation. It is somewhat difficult to distinguish the principle of the decision in *Ricket's case*, where it was held that injury caused to the good-will of a business by reason of diversion and obstruction of traffic could be no ground for compensation, because it was considered that the house itself was not injuriously affected, but only the profits of the business. As above stated, it may be doubted whether *Ricket's case* is good law.

Besides the above matters which the judge and assessors are expressly told to take into consideration, there are seven other possible heads of claim (mentioned in section 25), which they are expressly told to disregard. These are: the urgency of the acquisition; the disinclination of the owner to sell; damage which, if caused by a private person, would not be actionable; prospective damages; increase in the value of the land to be acquired, or increase to the value of other land which may result from the use to which the acquired land is put; and improvements effected with the view of enhancing compensation. The third and fourth of these are co-extensive with, and cover the same ground as the question of *injurious appropriation* above discussed, and they certainly do not elucidate the meaning of that fallacious expression. In respect of section 25, it may reasonably be observed that its comparative wealth of diction and minuteness of direction are more embarrassing than the obscure wording and technical terminology of the preceding section. The position of an assessor on these sections being read over to him is not an enviable one if he honestly tries to exclude the one set of considerations from his mind, and to apply his judgment to the other. It is no matter for surprise if in the end he does the things which he ought not to have done, and omits to do to the things which he ought to have done. It is true that the judge may be able to set him right, but that does not cure the defect of the law, which should be lucid where it is unintelligible, and authoritative where its meaning is doubtful and uncertain.

It is impossible within the limits of an article like the

present to discuss the numerous cases which may arise under these sections. No doubt the conditions of life are more simple in India, and the questions to which the complexity of English tenures and the variety of conflicting interests in large and crowded towns have given birth, can hardly arise under the Indian Act. But where the most important provisions of the Act itself are obscurely worded, and cannot be reasonably construed or carried into effect without the application of a special knowledge of the English law, it may reasonably be doubted whether there is not an urgent need for amendment, so that these sections may, in reality, embody the law which is to be applied, and he that runs may read.

It has already been said that the intention of the framers of the Act was, that the principles applied, and the law in force as regards those principles in England, should be faithfully followed out under the altered conditions of this country. It can scarcely be doubted that the Act fails to embody those principles, and that consequently, they cannot in actual practice be accurately applied.

The Act, therefore, does not carry out the spirit of the English law as regards the theory of compensation. As regards the statutory mode of awarding it, the difference, as has already been pointed out, is more than obvious. There is no such thing as the independent judgment of impartial men, because the assessors themselves, though it was doubtless intended that they should be impartial judges, have, by the force of circumstances, become the most partial of advocates. It does not appear to be understood in this country that a man who is appointed by one of several parties to act in co-operation with other men similarly appointed by other parties, all of whose interests conflict, should act, when once appointed for all the parties, without prejudice or favour. And the result of the Board's rule above alluded to undoubtedly has been to arouse the surest feelings of antagonism between the two assessors, so that neither aims at anything else than to defeat the claims of the other side, to blunt the force of whatever arguments may be used against him, or to lend the whole weight of his position to secure a high or a low valuation as the case may be. This can lead to nothing but fruitless discussions and a waste of the public time, and does not ensure a fuller or more impartial enquiry than if the judge were sitting by himself.

In the state of things which now exists, the question therefore has to be answered: Is not the judge impeded in his enquiry rather than assisted by the presence of assessors, and has not the principle of allowing the parties to select their own judges, led to something very like abuse? In the first

place, the Act provides that though these sections are to be read out to the assessors before they give their opinion, yet their opinion as to matters of law, or usage having the force of law, is not to prevail against that of the judge. Now, what do these sections (even if amended so as to express what is really the law) contain or lead up to, except questions of law of the most intricate kind? And how can the judgment of the assessors be set in motion so as to render their opinion of any worth at all, unless these sections are first properly explained to them? Assuming that the judge does so explain the sections to them, of what does the explanation avail if the assessors are prejudiced from the outset, and resolved to admit of no construction of the sections except that which favours their side? And if the judge, by reason of his superior training, is able to read into the sections all the experiences from them which may legitimately be drawn, and all the interpretations which may fairly be put upon them, surely his judgment may be trusted to draw a fair and unprejudiced conclusion from the evidence before him, and to apply to it, without fear or favour, what he believes to be the law?

As it stands, the proceeding is neither a judicial one nor an extra-judicial one: it is neither an adjudication upon the merits of the claim by a qualified and impartial judge upon hearing all the evidence subject to an appeal, upon sufficient materials, to a higher court; nor is it an arbitration by public judges saying from their experience of the world what damages ought to be given. Public criticism is not, given its full scope; nor is this a Government proceeding carefully watched and judicially supervised by the law courts. There is neither an independent verdict by the public, nor is there any direct official responsibility.

In conclusion: legislation on this subject in India is not in any true sense based upon the principles established and acted on in England. In its working the Act has been found not to keep pace with, but rather to have diverged from, those principles. The statutory machinery for awarding compensation is proved not to work in the same way, or with the same satisfactory results, as the corresponding machinery in England. The principles to be applied are even now unsettled

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\* [We agree with the Reviewer in thinking the assessors superfluous; but it seems clear that Government is the greater sufferer. The private assessor is always a keen advocate for the person who nominates him, and is instructed by him before he goes into Court. On the other hand, the Collector often deputes a Deputy Collector without saying a word to him. Again, the rule in section 33—that if the judge awards only a few rupees more than the Collector, all costs are borne by Government—bears somewhat hardly on Government.—Ed.]



and of doubtful meaning. Amendment of the Act so as to clearly explain what the right principles are, has become imperative, and it may now be fairly asserted, after a long trial has been given to it, that the joint system of assessors and judge has not produced the results which were in contemplation when the Act was passed, and that the judge sitting by himself, and in every case controlled by, and responsible to the High Court alone, would more truly arrive at the merits of each claim after hearing such evidence as the parties were able to adduce before him. It is the business of the judge to know what the law is, and if he is to be overlooked and checked by other judges (called assessors), who are responsible to no one but those whom it is their intention to serve, this is nothing more than a slight upon his capacity or his impartiality.

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## ART. V.—TAXATION IN INDIA.

### *Part I.—The Income-tax.*

THE Government of Lord Dufferin is generally credited with having revived the income-tax. This is a misapprehension which it is necessary, in the interests of truth, to dispel. There was in existence from 1877 an income-tax of a very partial and invidious character, an income-tax upon the agricultural and trading classes, and one from which the professional and official classes and fund-holders were exempt. The effect of Lord Dufferin's Act (Act II of 1886) was to equalise the incidence of the tax, and to make all classes of people amenable to it. So far, it was a good measure from an economic point of view; but the Act might have been framed with better care and a clearer insight into the situation.

The income-tax was introduced into India in 1860 by the Right Hon'ble James Wilson, a financier sent out from England. In the Financial Statement of 1860—the only one he made, for he did not survive to make another—he laid down this principle that “an income-tax to be just, ought to be universal and equal in its application to all alike, within a certain limit of income: we could not justify such a tax upon any other conditions.” The same principle was expressed by Disraeli in his own characteristic language:—“An income-tax based upon the exemption of large classes therefrom, is confiscation.” This has become an axiom of English taxation from the day it was enunciated by that great statesman. The Income-tax Acts of 1860, 1869, 1870, and 1872, were all within the rule, and no improper exemptions were made.

The Income-tax Act of 1872 expired in March 1873. During the four years which followed no new taxes were imposed, but considerable loss of Customs Revenue incurred by reducing the general rate of import duties from  $7\frac{1}{2}$  to 5 per cent. There was, during this period, a famine of some magnitude and duration in the Presidency of Madras, costing the Government upwards of  $6\frac{1}{2}$  millions sterling. Consequently, it was deemed expedient in 1877 to raise  $1\frac{1}{2}$  millions sterling by fresh taxation. Then, for the first time, a wide departure was made from the principle of an impartial and equal distribution of the burden. Sir John Strachey was then Finance

Member. I shall let him speak for himself. In his Financial Statement made on the 15th March 1877, he said :

It will be understood, from what I have already said, that I have no measures to propose at present for the imposition of any general taxation. It may be a cause of special relief to some of my audience to learn that the rumours which they have heard from time to time about the re-imposition of an income-tax have no foundation. As to the income tax, I freely confess that I regretted its disappearance ; but there has been no thought of restoring it. The Government is obliged to propose some other taxation, of which I shall speak further on.

Later on he said :

Now, the Government is not so foolish as to imagine that there is any essential distinction between provincial and Imperial taxation, or between provincial and Imperial expenditure. When we talk of throwing upon the Local Governments new responsibilities for increasing the public revenues ; or for relieving our finances by making provincial certain obligations which have hitherto been Imperial, we are not so ostrich-like or so dishonest as to imagine, or to profess, that, by any juggle of names we can alter the nature of new taxation, and make it less burdensome to the people, or that the actual expenditure of the Empire is diminished, when we say that charges for certain classes of works which have hitherto been Imperial, shall henceforth be provincial. Indeed, in the Accounts as now remodelled, no distinction whatever is made between Imperial and provincial revenue and expenditure.

It seems a general income-tax was distasteful to the men of influence and note in Calcutta—chiefly professional men, officials, and fundholders, who formed the bulk of Sir John Strachey's audience in the Council Chamber. To respect the feelings of these gentlemen in the matter of the income-tax was, no doubt, a commendable act of policy. It was not thought necessary, however, to show any large consideration for the agricultural and trading classes. Accordingly, an Act was passed through the Provincial Legislature for imposing an income-tax upon the gross rents and profits of all rural land, being ninety nine per cent. of the land in Bengal. It was called the Public Works Cess in the Act and Public Accounts ; but it was, in reality, an income-tax at the rate of three pies in the rupee upon all classes of rural landholders, without any minimum limit whatever, and reaching the lowest incomes of ryots. Another Act was passed through the same Legislature imposing what was called a License Tax upon the trading classes, but which was, in fact, an income-tax upon a graduated scale, with a minimum limit of income of Rs. 200, afterwards raised to Rs. 500.

In these modern days, the minds of people have become so familiar and imbued with the equitable character of the income-tax, that it has become impossible for any legislature to impose

any cess, or license tax, properly so called. It cannot impose a rate of so much per acre, because all acres are not equal in value, and do not yield the same profits. Nor can it impose an equal license-rate even upon traders of the same class; for among traders of the same class, the incomes made by individuals vary very greatly. Thus, if the Government imposes any new tax upon any class of persons or property, whether it is called cess or license, it necessarily takes the character and form of an income-tax. The Government may, if it thinks fit, imagine that it has imposed something materially different from the income-tax; but it cannot, "by a juggle of names, alter the nature of new taxation."

The tax upon the agricultural classes, known as the Public Works Cess, must not, however, be confounded with the Road Cess. The one is an Imperial or provincial tax, (there is no distinction between Imperial and provincial revenue, as has been shown by Sir John Strachey); while the other is a rate for local purposes, and has since been made over to the Local Boards under the Local Self-Government Act. In this respect, the Public Works Cess stands on the same footing as the License Tax. In 1880, an attempt was made to distinguish between the two taxes and get the License Tax repealed. This attempt was manfully resisted by Sir John Strachey, who happened to be again Finance Member. In his Financial Statement, February 24th, 1880, he says:

Considering that precisely the same reasons were given by the Government, and accepted by the Legislature, for imposing fresh taxation on the trading and agricultural classes, with the object of protecting the country against the financial consequences of famine, and that special stress was laid upon our desire to make the burden fall with approximate equality on each of these classes, it would be difficult for the present Government, at least, to accept any proposition for treating them differently now. In fact, it would be hardly possible to maintain the cesses on the land, if the tax on trades were abolished. It might be more possible to defend the abolition of the cesses on the land and the maintenance of the tax on trades; but it is needless to discuss such questions. Practically, so far as we are concerned, these taxes on the agricultural and trading classes stand on the same basis.

Between 1877 and the date of Lord Dufferin's Act of 1886, there was no material change in the situation. Independently of the need for an increase of revenue, the members of Lord Dufferin's Government might very well have justified their Income-tax Act upon the ground that its extension to the classes hitherto exempt therefrom was a necessary act of justice to the taxed classes. But they did not take this line; they do not seem to have had any clear knowledge of the nature of the tax called the Public Works Cess, beyond having

a dim and hazy notion that the agricultural classes should be exempted from the income-tax. The License Tax was more intelligible; it came so very near the Income-tax in name and nature, that the Government readily incorporated it in the general Income-tax Act. The Public Works Cess was a tax standing "on the same basis," and should have been dealt with in the same manner. An alternative course was likewise open to the Government, which might retain the Public Works Cess, and justify its retention upon the ground that it was more easily collected, with the local Road Cess, and that its rate should remain uniform and not be subject to fluctuations according to the exigencies of the State, like the income-tax. But then, it was necessary to exempt land subject to the payment of the Public Works Cess from the general Income-tax. This course, though not so just and simple as the other, had expediency to recommend it, and might, at the least, have been adopted by the members of Lord Dufferin's Government. They did not adopt it, however; but they adopted a course which ran close to, but was not the right course. The new Act was styled, "An Act for imposing a tax on incomes derived from sources other than agriculture," and complicated clauses were enacted for the exemption of the agricultural classes. Now, independently of the Public Works Cess Act, which has been retained, there can be no justification for this large exemption; while, having regard to the said Act, the exemption falls somewhat short. The Public Works Cess Act is popularly known as an Act for imposing a tax upon the agricultural classes or agricultural land, but it goes a little beyond. It taxes all rural land, including non-agricultural homesteads and rural markets. The owners of such non-agricultural rural land now enjoy the privilege of being doubly taxed. They pay the Public Works Cess, while they have not been exempted from the Income-tax. On the other hand, the general exemption of all agricultural land in the Income-tax Act applies to provinces where there is no Public Works Cess or other similar tax. The exemption of agricultural land in those provinces, therefore, seems to be unjustifiable, causing as it does a serious loss of revenue without any reason whatever. Altogether, the framing of the Income-tax Act was marked by serious defects; yet, the measure was an eminently just one, in which it was almost difficult to fail. If the framers had only studied carefully the dry annals of direct taxation in India, and had extended their research beyond 1877, they would have easily discovered how matters stood. Retaining as they did the Public Works Cess, they could not well tax again any property or income subject to the same or other similar tax. The proper exemption is thus logically made out, and is far

more simple and just than the complicated clauses in the Act; which exempt what should not be exempted, while they cover certain incomes that ought not to be taxed.

There is every likelihood of the Income-tax being made permanent. There are many reasons for this course. I have carefully gone through the Financial Statements from 1860 to the current official year, and have not come across a single year of real surplus. In each of the so-called surplus years the Government has been obliged to borrow largely for the annual public works. The finances can hardly be said to be in a prosperous condition, until the annual expenditure for the public works is met from the current revenue. It will be long before this position is attained; and until then, no tax can safely be surrendered. The Income-tax especially—the most equitable of taxes when honestly and impartially imposed—ought never to be entirely relinquished. It should be kept low in prosperous years, and raised in years of need. It cannot be justly repealed so long as the Public Works Cess is retained, which is an Income-tax upon the rents and profits of rural land. The fact that the two taxes were parallel, and should stand or fall together, should never be lost sight of. Judging by past experience, we might be tolerably certain that the repeal of the Income-tax would be soon followed by the imposition of a partial and unequal tax upon particular classes of persons or property. A general Income-tax is not acceptable to officials, who draw fixed salaries, and it is also, against the interests of the Anglo-Indians as a class, for they have comparatively large incomes, and not one among them can escape the tax. With such powerful forces hostile to a general tax, it behoves all persons interested in the good government of the country to guard the Income-tax jealously, and to see that it is not lightly repealed or transformed into an odious class-tax.

I should note here that the Indian Association of Calcutta, and several other political associations of lesser note, displayed a most lamentable lack of real patriotism and breadth of view in opposing the introduction of the Income-tax. They pretend to represent the rural population—that is, the people of Bengal; but they are utterly incapable of seeing beyond the narrow horizon of their own paltry interests. That they should oppose the Income-tax is quite natural, considering that the Associations are mostly composed of men in the legal profession and men in service, with a following of men without employment and young men in and out of college. An income-tax is obviously against the interests of the leaders of such associations, which have very little of the rural in their composition, and have no touch with the rural population.

It is quite clear they do not represent the people of Bengal, or any thing beyond their own interests.

The following suggestions on the subject of a tax on income are submitted for the consideration of the Indian Government and the Indian public :—

*First.*—The Public Works Cess and the corresponding tax in the North-Western Provinces, Central Provinces, and Punjab should be abolished, and the clauses in the Income-tax Act, exempting agricultural rents and profits, should be repealed. This is the only simple and honest course. It will consign to its proper resting-place the last remains of the unjust legislation of 1877, which threw the entire burden of fresh taxation upon only two classes of Her Majesty's subjects. The License Tax upon the trading classes has been repealed; the Public Works Cess ought to have been repealed at the same time. One most objectionable feature of this latter tax is, that it allows no minimum limit of income, and falls most hardly upon the poorer class of ryots. The profits of a ryot's holding are assumed to be the amount of his annual rent; and upon this valuation, a uniform rate is levied upon the different classes of rural landholders, without any exemption whatever.

The detailed Finance and Revenue Accounts of the Government of India for the year 1886-87 enable me to give additional facts and figures in verification of my premises and, generally, to tread firm ground. The following table, prepared from the Accounts of 1886-87, exhibits in two parallel columns the collections of Income-tax and Public Works Cess or other corresponding tax, in each Province :—

Name of Province.	Collections of Income-tax in 1886-87.	Collections of Public Works Cess or other tax corresponding thereto in 1886-87.	Remarks.
	Rx	Rx	Rx stands for 10 rupees. Formerly it was the exchange value of a pound sterling.
1 India, General (the Bengal Army, the Telegraph, the Survey, and other departments under the Government of India and the Districts of Coorg and Ajmere) ...	124,162	nil	
2 Central Provinces ...	40,346	13,011	
3 Burma ...	16	nil.	
4 Assam ...	20,505	nil.	
5 Bengal ...	364,457	385,937	
6 North-Western Provinces and Oudh ...	222,068	197,702	
7 Punjab ...	112,377	64,944	
8 Madras ...	154,345	nil.	
9 Bombay and Sindh ...	316,459	nil.	
Total ...	1,354,735	661,594	

The above figures are very instructive, and show that there is no Public Works Cess or other similar tax in the Provinces of Madras, Bombay-Sindh, and Assam. In Bengal the amount of the Public Works Cess is a trifle larger than that of the income-tax. But even in Bengal there is no likelihood that the revenue will suffer much by adopting the course suggested above. The Public Works Cess will have to be relinquished, but the revenue will be compensated by the agricultural rents and profits being made liable to pay the income-tax. The result may be calculated as follows:—

The Public Works Cess which is an Income tax at the rate of 3 pies per rupee or 1½ per cent upon the gross rents and profits of all rural landholders without any minimum limit ...	Rx 385,937
The total gross income of rural landholders is 64 times the above ...	" 24,699,968
Deduct incomes not exceeding Rs 500 per annum, which, following the rule in the Income-tax Act, will have to be exempted. This is not likely to exceed one-third of the whole, and may safely be estimated at ⅓ of Rx 24,699,968 ...	8,233,322
Balance of gross taxable income ...	Rx 16,466,646



Deduct 10 per cent. for reducing the gross income to net income	...	...	...	Rx	1,646,664
Balance, being the amount of net income chargeable with the Income-tax.	...	...	...	"	14,819,982
Upon the above amount the Income-tax calculated at the rate of $4\frac{1}{2}$ pies per rupee (being the average rate under the Income tax Act)	...	...	...	"	347,343

Upon the above estimate, the Income-tax will be exactly ten per cent. less than the amount of the Public Works Cess. In other words, the poorer class of ryots in Bengal—numbering millions—will be exempted at a small sacrifice of Rx 38,593. But there is to set off against this loss the Income-tax upon the agricultural rents and profits of the Provinces of Madras, Bombay-Sindh, and Assam, which have been exempted without any reason whatever. I have no certain data for calculating the Income-tax upon agricultural land in the three provinces; but the aggregate amount in the three provinces will be at least equal to that of the single province of Bengal and, for a safe estimate, may be assumed to be ... Rx 347,346

Set off against it the falling off in the revenue likely to be caused by substituting Income tax for Public Works Cess in respect of agricultural land, estimated at 10 per cent. of the present Cess :—

Bengal	...	Rx	38,593
North-Western Provinces and Oudh	...	"	19,770
Punjab	...	"	6,494
Central Provinces	...	"	1,301

Total	...	Rx	66,158
Balance, being net additional revenue which has been thrown away by the careless framing of the Income-tax Act	...	"	281,165

I venture to hope that the logic of the above facts and figures will convince the Government of India that, by repealing the Public Works Cess and other similar tax, and making the Income-tax Act what an Income-tax Act should be—universal in its application to all incomes above a certain minimum limit—it will not only right old wrongs, but secure to itself a clear increase of revenue of more than two and half millions of Rupees.

*Second.*—The Income-tax Act should be modified, and the rents and profits of rural landholders, subject to the Public Works Cess in Bengal and to the Famine Assurance, Canal, and Railway Cess in the North-Western Provinces, Central Provinces, and Punjab, should be substituted for the rents and profits of agricultural land. This is suggested as an alternative course, but it is not a straight course like the other, but a tortuous

proceeding, which, without making things square, will prevent the holders of non-agricultural rural land from being doubly taxed, and secure to the Government a considerable increase of revenue from the provinces of Madras, Bombay-Sindh, and Assam. But the wrongs of the poorer class of ryots, numbering millions, will remain unredressed.

- *Third.*—The assessments should be made triennial as in Act XVI of 1862, and the Income-tax payable in four quarterly instalments as in Act XXXII of 1860. Annual assessments are extremely harassing. Triennial assessments may cause some slight loss of revenue, but it will be partly compensated by a reduction of expenditure in the office establishments.

The rule for the payment of the entire tax at the beginning of each year under heavy penalties is naturally regarded as a great hardship and ought to be modified. One of the great points to be kept in view is to make the tax as little harassing as possible.

### *Part II.—The Land Revenue.*

Prior to 1860 Indian financiers considered land as the principal and the only elastic source of revenue. The improvement of land revenue by rack-renting the ryots was the sum total of their financial policy. The Right Hon'ble James Wilson says (Financial Statement, February 18th, 1860): "But, again, Sir, there is another evil of no slight kind, which has resulted from the fact that we have hitherto relied so exclusively upon the land for our revenue. As I have already shewn you, the Finances of India have been almost always in difficulty; deficits seem to have been their normal condition. But efforts have always been made to raise the income; and I fear that those efforts having been mainly directed to improving the land revenue, have resulted in something bordering upon oppression on the ryots, and not leading, in the long run, really to the improvement of the revenue. Of the evils of over-assessment we have recently had a striking proof in Madras. . . . I ask then, Sir, is it wise for a great empire to rely so exclusively upon one source of revenue as we do in India, and to press our charges upon it so much, that while we run a risk of oppressing the people, we are certain, if we do so, to impoverish the exchequer." But the system of periodical assessments and rack-renting has not yet been altogether abandoned. The Land Revenue has been continuously improved and is now the largest item of revenue in India.

- The following table, compiled from the Finance and Revenue Accounts of the Government of India for the year 1886-87,

shows the gross receipts and net proceeds under the principal heads of Revenue :—

Principal heads of Revenue.	Gross receipts.	DEDUCT.				Net proceeds.
		Collection charges	Refund and Draw-back.	Assignment and Compensations	Total	
	Rx (in Rupees)	Rs	Rx	Rx	Rx	Rx
Land Revenue ..	23,755,724	3,462,747	35,025	952,275	4,450,08	18,605,676
Opium ..	8,942,976	2,726,512 (including cost of production)	68	.. ..	2,726,580	6,216,396
Salt ..	6,657,644	28,162 (including cost of production)	30,361	400,000	916,523	5,741,121
Stamps ..	3,751,81	85,640	45,494	.. ..	131,114	3,620,166
Excise ..	4,375,174	116,508	58,744	.. ..	155,252	4,219,922
Provincial rates ..	4,999,861	51,105	6,80	.. ..	57,955	2,941,906
Customs ..	1,246,293	135,818	28,118	.. ..	163,936	1,082,357
Assessed taxes (Income tax) ..	1,354,735	57,158	27,067	.. ..	77,225	1,277,510
Forest ..	1,103,970	716,413	1,499	.. ..	717,912	386,058
Registration ..	299,059	184,845	1,122	.. ..	185,967	113,092
Tributes from Native States ..	695,415	.. ..	181	94,662	94,845	600,570
Total.	54,482,131	8,015,888	214,532	1,446,937	9,677,357	44,804,774

Besides the principal heads of revenue mentioned in the table, there are the receipts from the Post Office, Railways, Irrigation, and Civil and Military Departments; but the expenditure exceeds the receipts under each head. As yet none of them can be said to have become a source of revenue. The Railways promise to yield a surplus at no distant date, and may hereafter become an important revenue affluent. Irrigation will never pay its way, but remain for ever an incubus on the Finances of India.

The entry of the Provincial Rates among the principal heads of Revenue in the Accounts since the year 1878, is somewhat delusive. It consists of the following items :—

1. District Local Funds (Road Cess) ..	Rx 1,885,339.
2. Public Works Cess in Bengal and Famine Assurance Canals and Railways Cess in the North-Western Provinces, Punjab, and Central Provinces ..	.. .. 628,174.
3. Village Service and Patwari Cess ..	.. .. 359,280.
4. Cess for District Post ..	.. .. 41,297.

The first item, District Local Funds, Rx 1,885,339, is not Revenue either Imperial or provincial. It is similar to Municipal Funds, and clearly out of place in the Revenue Accounts of the Government of India. The other items, amounting to Rx 1,028,751, are revenue and, being derived from land, may very well have been placed under the head of Land Revenue. The following duties levied in stamps, and forming a considerable portion of the Stamp Revenue, ought, likewise, to come under the same head :—

*First.*—Duty on the transfer of land, whether by sale, gift, mortgage, or lease at the rate of one per cent. upon the capital value, or 15 to 20 per cent. of the annual income. All deeds relating to transfers of land are registered in Book I (Registration Department) and the total amount of stamp-duty paid on such transfers may be accurately ascertained from the Registry Offices. In the absence of accurate data, I may roughly estimate it at Rx 500,000 being nearly one-half of the total value of ordinary stamps sold. As most of the large stamps are used for this purpose, the estimate may be accepted as a pretty safe one.

*Second.*—The Succession Duty on land. This is paid in Court-fee stamps on the grant of Probate, Letters of Administration, or Certificates. The duty is at the rate of 2 per cent. on the capital value, or about 30 per cent. of the annual income. In 1868 the Bengal Chamber of Commerce proposed a Succession Tax as a substitute for an Income-tax. It was, no doubt, very disinterested and good of the mercantile body to offer this suggestion, seeing that there is very little death or succession among mercantile firms, though the members are constantly changing, but it did not find much favour with the Right Hon'ble W. N. Massey, who was then Finance Member. In his Financial Statement (March 14th, 1868), he said: "The advantage which has been claimed for a Succession Tax, over an Income-tax, that it is paid once for all, and at the time most convenient to the payer, points in reality to one of its most serious objections. It signifies, in other words, that the tax falls upon Capital, and not upon Income." Only two years after this declaration, a heavy Succession Tax, equal to 30 per cent. of income or 12 years' income-tax, was quietly and adroitly introduced in the Court Fees Act, 1870. There was no mention of it in the Financial Statement of 1870. It was treated as a mere matter of Stamp Duty as in suits and proceedings. It attracted little notice, and has not been the subject of any loud complaint. It has one redeeming feature, that the payment of the duty is not compulsory in all cases of succession. The duty has to be paid on the grant of Probate, Letters of Administration, or Certificate under

Act XL of 1858, and falls chiefly upon large landed estates. Small estates seldom come into the Probate Court ; but large estates are rarely free from litigation, and very few can escape the Succession Duty. There can be no doubt that the Succession Duty on land amounts to a large sum. There are no data for making any accurate calculation ; but it may be safely assumed to be equal to the Transfer Duty on land or to Rx 500,000.

It appears, therefore, that full justice has not been done to the Land Revenue in the Government Accounts, and that, if properly classified, the proportion of the net land revenue to the total net revenue will be very nearly one-half as shown below :—

Net Land Revenue according to the Government Accounts	...	Rx 18,605,676
Add Public Works Cess, Patwari Cess, and District Post Cess	...	" 1,028,751
Add Transfer and Succession Duty on Land, levied in stamps	...	" 1,000,000
Total net Land Revenue	...	<u>Rx 20,634,427</u>
Total net revenue according to the Government Accounts	...	Rx 44,804,774
Deduct District Local Funds which is not revenue	...	" 1,885,339
Balance, being total net revenue	...	<u>Rx 42,91,435</u>

The settlement of Land Revenue is not uniform throughout India. It varies in the different provinces and in different parts of the same province. It may be classified under two principal heads :—

1. Permanent Settlement, under which the revenue is fixed in perpetuity.
2. Temporary Settlement, under which the revenue is subject to periodical assessments.

Temporary Settlement is, again, either zemindary or ryotwary. It is temporary zemindary settlement when the land is settled in large lots with zemindars or landlords ; it is ryotwary when the land is settled in small lots with ryots or cultivators. In either case, the Government every 20 or 30 years assesses the rents payable by the ryots. In case of zemindary settlement, a percentage is allowed to the zemindar for his profits and charges and risks of collection ; in the other case, the assessed rents are collected directly from the ryots. It must not be supposed, however, that it is optional with the Government to make the settlement zemindary or ryotwary as it pleases. It is bound, according to its rules, to respect existing proprietary rights, and to settle with the old proprietors, whether they belong to the class of zemindars or ryots. The Government cannot expropriate a landlord without his consent. But in temporary zemindary settlements, the actual profits of zemindars

are generally very far short of the paper-profits reserved to them; and they would be too glad, if allowed the option, to barter away their proprietary rights for an annuity. This sort of expropriation appears to have been largely resorted to in the province of Bombay, where upwards of 8 millions of rupees are annually paid to the ex-proprietors. It is entered in the Government Accounts under the head of Assignments and Compensations, and is above 30 per cent. of the total net Land revenue of the province.

The province of Bengal (with the exception of the territory of Orissa and the Hill Tracts of Chittagong) and about one-third of the province of Madras are permanently settled. In the North-Western Provinces and Oudh and in the territory of Orissa and the Hill Tracts of Chittagong in Bengal, the system of temporary zemindary settlement is in force. In the province of Bombay and Sindh, in the Punjab, and in about two-thirds of Madras, the settlements are temporary ryotwary. The following table, compiled from the Finance and Revenue Accounts of 1886-87, shows the gross Land Revenue, collection charges, and net Land Revenue of each province:—

Name of Province	Gross Land Revenue.	PRODUCT.				Net Land Revenue.
		Collection Charges.	Refunds and Drawbacks.	Assignments and Compensations.	Total	
	Rx*	Rx	Rv	Rx	Rx	Rx
1 India General ..	112,81	56,817	571	..	57,388	54,993
2 Central Provinces ..	625,674	137,064	246	369	137,679	487,995
3 Burma ..	1,481,163	244,140	1,200	...	245,340	1,235,813
4 Assam ..	430,642	95,369	432	...	95,801	334,841
5 Bengal ..	3,577,148	352,142	3,626	14,463	370,231	3,206,917
6 North-Western Provinces and Oudh ..	5,762,997	795,068	1,973	17,350	814,391	4,948,606
7 Punjab ..	2,104,210	312,456	6,220	14,551	333,227	1,770,983
8 Madras ..	4,438,902	776,316	8,052	70,196	854,564	3,584,338
9. Bombay & Sindh ..	4,202,269	673,375	12,706	835,344	1,521,425	2,680,844
Total ..	23,055,724	3,462,717	35,026	952,275	4,450,018	18,605,706

From the above figures it is easy to calculate the proportion of collection-charges to the gross land revenue in each province. It is 9.08 per cent. in Bengal, 13.62 per cent. in the North-Western Provinces and Oudh, 15.77 per cent. in the Punjab, 17.18 per cent. in Madras, and 16.01 per cent. in Bombay and Sindh.

In the Temporary Settlement Provinces, the Government is practically the landlord, and has to maintain a large establishment of officials to periodically assess the rents. If the Temporary Settlements in the North-Western Provinces, Punjab, Bombay, and Madras be made permanent, the collection-charges will be at once reduced to about 9 per cent. as in Bengal. In other words, there will be a clear and immediate saving of Rs. 1,050,000 or ten and a half millions of rupees in the collection charges. This is an important fact to which I shall have to refer later on.

The Right Hon'ble James Wilson observed (Financial Statement, February 18th, 1860 : "In selecting new sources of revenue, the Government is very much impressed with the fact that hitherto a large share of the revenue has been derived from land, and that the practice of revising the assessment periodically has at least had the effect of keeping the actual cultivator at a rack-rent." This, unhappily, is too true of the Temporary Settlement Provinces. We have often heard of fifty millions of people half-starving upon one meal a day. It is a picture, somewhat high-coloured perhaps, of the impoverished condition of the tenantry in the North-Western Provinces and the Deccan. In Madras also, the frequent necessity of granting remissions to the ryots, and the official scandals to which it occasionally gives rise, have become matters of wide notoriety, and show that the condition of the Madras ryots is scarcely any better. To call them peasant-proprietors, as they are called, is a clear irony. The system of periodically revised assessment keeps them at a rack-rent quite as much as it does the tenantry in the other Temporary Settlement Provinces. At this moment, the people of the Central Provinces are giving free expression to the intense feeling of dread and dislike with which they regard the so-called, peasant-proprietary settlements in the province of Bombay. They seem to evince no feeling of gratitude to the paternal Government for its gracious offer to unite the two provinces; but they resent the idea of such an union. They will not have land settlements upon the Bombay model nor will they have their province over-run with Settlement Officers trained in the Bombay school. The temporarily settled zemindaries do not seem to be much better off, and are not much in request among capitalists for purposes of investment. The late Sir Ashley Eden, while Lieutenant-Governor of Bengal, went to see the famous temples of Brindabun, and was the guest of the Setts of Muttra, the great bankers and Rothschilds of India. In the course of conversation it came out that the Setts had no zemindaries to speak of. They told Sir Ashley that the temporarily-settled zemindaries were not good property to invest in.

From the Temporary Settlement Provinces, it is a relief to turn to the Permanent Settlement Province of Bengal. In Bengal the zemindars are prosperous, the ryots are prosperous; there is prosperity everywhere. That the zemindars should prosper under a Permanent Settlement, is obvious enough; but how is the prosperity of the ryots to be accounted for? The reason is simple. In the Temporary Settlement Provinces it is the interest of the Government that the ryots should be kept at a rack-rent. In the Permanent Settlement Province of Bengal the interests of the Government are not in conflict with those of the ryots. In Bengal the Government can be generous to the ryots without any cost to itself. It has, accordingly, framed laws which not only secure to the ryots a perpetual right of occupancy at an easy rent, but which render revision of rent extremely difficult, even when the old rent is absurdly low. The laws favour the growth of rights to hold at fixed rents from uniform payments for 20 years. There are numerous tenures of this class. Then there are putnees, durputnees, mouascees, and other permanent tenures at fixed rents which the laws have enabled the zemindars to create. All these tenures—whose number is increasing every year—cover more than one half of the permanently settled area of Bengal.\* Fixity of rent is incompatible with temporary settlements; and permanent tenures are wholly unknown in the Temporary Settlement Provinces. It must also be borne in mind that Bengal possesses a property of immense value, which no other province has, or has to the same extent, viz., property in land created by the Permanent Settlement. This fact alone is sufficient to account for the greater prosperity of Bengal and its people. This immense wealth of landed property is not hoarded in the hands of a few as in England, it is liberally distributed among the people, and is being distributed every year with a free hand. There is the utmost free trade in land. Estates and tenures are constantly changing hands, large estates are being constantly split and multiplied into small estates, and new permanent tenures are being constantly created. There are now upwards of a hundred thousand estates, and upwards of a million of permanent tenures.† It can be truly said of the Permanent Settlement that its benefits are wide-spread and far-reaching.

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\* *Note.*—Most of the large estates are wholly let out in putnee. In every estate, whether let out in putnee or not, there are numerous permanent tenures created by grant or by operation of law, or existing from before the Permanent Settlement. That they cover more than one-half of the permanently settled area is not an over-estimate.

† In connection with the Bill for the Registration of Tenures before the Bengal Legislative Council the number of tenures was estimated at nearly a million three years ago. It must be now upwards of a million.



It is high time that the benefits of the Permanent Settlement were extended to the North-Western Provinces, the Punjab, Madras, and Bombay. In those provinces, the Government has heaped enough on the back of the ryot, and ought to beware how it adds another straw to the load. For any straw may prove to be the last straw, and produce the proverbial catastrophe. On the side of the Government, it may be urged that 'there can be no question that a permanent settlement will be better for the people. But by the system of temporary settlements, we get an increase of revenue at each settlement. Can we prudently sacrifice that?' I have bestowed some care and attention upon this subject, and am in a position to say that a permanent settlement of the four provinces will not only not involve any sacrifice of future revenue, but may be made the means of bringing to the Treasury a good round sum,—something like Rx 7,500,000. I have to make both these matters clear to the reader. I may say at once with regard to the first, that the saving in the collection-charges will fully cover the loss of increased revenue from periodical revisions of rent-rates. I now proceed to establish this proposition by facts and figures, and invite a searching examination of the same.

The Financial Statement of the Hon'ble J. Westland (March 26th, 1888), contains much valuable and interesting information regarding the growth of Land Revenue since the year of the Mutiny, 1856-57. Speaking of Madras, he says, what is true of all the Temporary Settlement Provinces, that the growth of Land Revenue "takes place in two directions. There is the periodical growth due to the increase of rent-rates at the end of every 30 years' period, and the annual growth due to the gradual increase of the area brought under cultivation." A permanent settlement will affect only "the periodical growth due to the increase of rent-rates," and not "the annual growth due to the gradual" extension of cultivation. It is important, therefore, to separate the two kinds of increment, and to eliminate altogether the increment due to increased cultivation. The Financial Statement says that in the province of Madras this increment is estimated at Rx 10,000 per annum or 40 per cent. of the total average annual growth estimated at Rx 25,000. It does not give any similar estimate of the annual increment due to increased cultivation in the North-Western Provinces, Punjab, and Bombay. But the condition of those three provinces, taken as a whole, is not materially different from that of the province of Madras, in so far as extension of cultivation is concerned. For the purposes of an estimate, therefore, I may safely adopt the rule of proportion, and assume that 40 per cent. of the total average annual growth ought

to be set apart as on account of waste lands being brought under cultivation.

The following Table, compiled from the Financial Statement of 1888, shows the average annual growth of Land Revenue since the Mutiny, in the four provinces under consideration during two periods of 14 years and 20 years respectively:—

Name of Province.	Average annual growth from 1856-57 to 1870-71 (14 years).	Average annual growth since 1870-71 (20 years).
	Rx	Rx
North-Western Provinces and Oudh	40,000	28,000
Punjab	10,000	12,000
Madras	43,000	25,000
Bombay and Sindh	57,000	25,000
	150,000	90,000
<i>Deduct 40 per cent., being the percentage of increment due to increased cultivation</i>	60,000	36,000
	90,000	54,000

It appears from the above figures that the annual growth during the second period is smaller, being three-fifths of the growth during the first period; in other words, the increase is in a decreasing ratio. This must be so in the nature of things. The difficulty of increasing the rent-rates will increase at each successive settlement, and the Government will soon find—much sooner than it reckons—that the limit has been reached and the rates will not rise any higher. For the purpose of framing a safe estimate, however, I must take a more hopeful view, and assume that the rent-rates will remain capable of expansion for a long time to come. Regarding the extent of such expansion, it may be fairly assumed that future expansion will be in the same ratio as found above, or, in other words, the average annual expansion during each period of 20 years will be three-fifths of the average annual growth during the preceding period. It is, of course, impossible to say

whether the future expansion of rent-rates will be exactly in this ratio ; but the Government ought to be content 'if the expansion goes on at that rate for a century or so.

The annual growth of rent-rates during the 20 years from 1891 to 1910 would be three-fifths of the growth during the preceding period, or three-fifths of Rs. 54,000 = Rs. 32,000 (omitting fractions of thousands). The increase over and above the Revenue of 1890 would be Rs. 32,000 in 1891, Rs. 64,000 in 1892, Rs. 96,000 in 1893, &c., and Rs. 640,000 in 1910. The gain to the Government during the period of 20 years, from 1891 to 1910, would be the aggregate of these sums, or Rs. 6,720,000. Its value in 1891, or the sum which lent out in 1891 at 4 per cent. compound interest would produce all those sums in the several years from 1891 to 1910, would be Rs. 4,001,000. I have fully worked out the details of the calculation ; but they are too lengthy to be inserted in this article.

During the next period of 20 years, from 1911 to 1930, the annual growth of rent-rates would be three-fifths of Rs. 32,000 = Rs. 19,000. The increase over and above the Revenue of 1890 would be Rs. 640,000 + Rs. 19,000 in 1911, Rs. 640,000 + Rs. 38,000 in 1912, Rs. 640,000 + Rs. 57,000 in 1913, &c., and Rs. 640,000 + Rs. 380,000 = Rs. 1,020,000 in 1930 ; total = Rs. 16,790,000. Its value in 1891, would be Rs. 4,856,000.

During the third period of 20 years, from 1931 to 1950, the annual growth of rent-rates would be three-fifths of Rs. 19,000 = Rs. 11,000. The increase over and above the Revenue of 1890, would be Rs. 1,020,000 + Rs. 11,000 in 1931, Rs. 1,020,000 + Rs. 22,000 in 1932, Rs. 1,020,000 + Rs. 33,000 in 1933, &c., ; and Rs. 1,020,000 + Rs. 220,000 = Rs. 1,240,000 in 1950, total = Rs. 22,710,000. Its value in 1891 would be Rs. 3,173,000. The sum total of increase over and above the Revenue of 1890 and its value in 1891, during the fourth, fifth, sixth, seventh, and eighth period of 20 years from 1951 to 2050, have been similarly worked out. It is unnecessary to carry the calculation beyond the year 2050, or farther than the eighth generation. The ninth and subsequent generations may, I suppose, be safely let alone. It is doubtful whether they will consider our policy of rack-renting and State-landlordism a "blessed inheritance," if we persist in transmitting the same to posterity. It is, however, needless to enter into these speculative considerations. The present worth of the estimated increase after 2050 is so very small, that it may be safely left out.

The following table shows the aggregate additional income or increase of Revenue which the Government would gain by continuing the system of periodical revision of rent-rates and loss by a Permanent Settlement, divided into eight periods of

20 years each, from 1891 to 2050, and the present worth or value in 1891 of the same for each period :—

Period of time.	Additional income or increase of revenue from periodical revision of rent-rates.	Present worth or the value in 1891 of the same.
	Rx	Rx
The first period of 20 years, from 1891 to 1910 ...	6,720,000	4,001,000
The second period of 20 years, from 1911 to 1930 ...	16,790,000	4,856,000
The third period of 20 years, from 1931 to 1950 ...	22,710,000	3,173,000
The fourth period of 20 years, from 1951 to 1970 ...	26,060,000	1,674,000
The fifth period of 20 years, from 1971 to 1990 ...	28,040,000	823,000
The sixth period of 20 years, from 1991 to 2010 ...	29,220,000	392,000
The seventh period of 20 years, from 2010 to 2030 ...	29,810,000	182,000
The eighth period of 20 years, from 2031 to 2050 ...	30,000,000	84,000
	199,350,000	15,185,000

Now, suppose the Government approved of a Permanent Settlement, and completed it in 1890 in the four Provinces under consideration, it would save Rx 1,050,000 in the collection-charges from 1891. This would be a perpetual annual gain of which the capitalized value in 1891 at 4 per cent. interest = Rx 1,050,000  $\times$  25 = Rx 26,250,000. If you set off against this the loss which would be caused by a Permanent Settlement of additional revenue from the increase of rent-rates, the value whereof in 1891 is Rx 15,185,000, you will find a large balance on the credit side of the Permanent Settlement. In fact, three-fifths of the saving which it will enable the Government to effect will be sufficient to cover the loss which it will cause of increased revenue in future. To those to whom this demonstration by the calculation of present value is not intelligible, I can suggest another process which is more easy but less precise. It is seen that by a Permanent Settlement the Government gains at once an annuity of Rx 1,050,000 in the saving of the collection-charges, while the increase of revenue which

it loses, is of slow growth, and will take 42 years to be on a par with the annuity. In the meantime, you can pay the increase out of the annuity, and invest the surplus, and the aggregate interest of each year in the 4 per cent. Paper. It will be found by those who have the patience to go through this long calculation that in 41 years, the accumulated surplus and interest will produce a second annuity capable of meeting the increase of revenue for all time to come, and yielding a large surplus besides.

I am bound to add that in making an estimate of the increment of revenue due to the increase of rent-rates, I have been obliged to proceed partly on data which might be more satisfactory. In the Financial Statement of 1888, the average annual growth of each province, and the growth due to the extension of cultivation in the province of Madras, are given. In order to eliminate this latter growth from calculation, I have been obliged to adopt the rule of proportion for the other three provinces. Now, the proportional growth which I have assumed may not be the exact growth. But in the profit and loss account of the Permanent Settlement, there is such a large balance on the credit side, that liberal concessions may safely be made if necessary. I hope the Government will order the preparation of a Profit and Loss Account, on the lines of this article, and the compilation of exact data for this purpose.

I have to show, next, how the Government may, by means of a Permanent Settlement, honestly earn seven and a half-millions of Rx. Ought not this to be received as "glad tidings of great joy" at a time when the Government is in sore need of money for the pacification of Burma and the frontier defences? The scheme is simple enough, and told in a few words. The Government need not concede a Permanent Settlement as a free gift. It has now a right to periodically revise the rent-rates, and may justly claim a moderate bonus for the surrender of this right. If the revenue-paying gentry, whether peasant-proprietors or zemindars, in the four provinces under consideration, had to pay full value for the redemption of this right, they would have to pay the aggregate present worth, amounting to Rx. 15,185,000 as shown in the Table above. The total Land Revenue of the four provinces, excluding one-third of Madras permanently settled, comes very nearly to this sum, being Rx. 15,040,000 as follows :—

The North-Western Provinces and Oudh	...	Rx	5,762,000.
Punjab	...	"	2,104,000.
Madras (two-thirds)	...	"	2,972,000.
Bombay and Sindh	...	"	4,202,000.

32. The full price of redemption would, therefore, be one year's

Revenue. But having regard to the fact that the Government is fully recouped for the sacrifice of its right from another source, it ought not to insist upon a full price, which would, probably, be much beyond the means of the impoverished proprietors holding under temporary settlements. The Government ought, under the circumstances, to be satisfied with a half price, or half of a year's revenue, which, again, ought to be allowed to be paid in instalments running over two or three years. This will bring in easily and honestly Rs. 7,500,000 as shown above.

If the Permanent Settlement is so good a thing,—so good for the Government and so good for the people,—then why has it not been thought of before, and why should not the Government introduce it at once? I doubt whether anybody has ever taken the trouble of making up a Profit and Loss Account of the Permanent Settlement or calculated its financial consequences. It was generally taken for granted that it would cause a great loss of future revenue. But if the eyes of the Government be opened to the true state of things, there is no reason why it should not approve of the scheme of Permanent Settlement. It will not be carried, however, without opposition. The saving in the collection-charges means the disbanding of an army of Revenue officials, including Members of Revenue Board and Commissioners and reduction of the revenue establishments to the Bengal scale. Some Indian officials may oppose this measure which would deprive them of the patronage of 10½ millions of rupees a year; but I do not expect opposition from any other quarter.

The Government may be asked to consider, also, whether it does not owe a plain duty to the people of India to leave them a valuable property in their own lands? It has recognized the proprietary rights of certain people, whether peasants or zemindars in the North-Western Provinces, Punjab, Bombay, and Madras. But how has it treated them? Has it not, under the name and pretext of Land-tax, taken the substance, and left them the mere shadow of proprietary rights? For proprietary rights are of little value, if the profits are kept low by successive assessments from time to time. In no civilised country is such a large proportion of the income of land taken as land-tax? There are peasant-proprietors in France and gentlemen-proprietors in the rest of Europe and in America. But everywhere proprietary rights carry substantial profits and command a high price in the market. There are peasant-proprietors in Madras, Bombay, and the Punjab which present a proper field for a beneficent political experiment on a large scale. The Government can make the so-called peasant-proprietors in the three provinces real

peasant-proprietors by fixing their revenue in perpetuity. This is clearly the dictate of a sound policy. The Government ought always to bear in mind that it is a foreign Government, and cannot expect much sentimental loyalty from the people of India. It ought to bind them by the ties of interest—the strongest of all ties—to remain for ever loyal to its rule. There was a time, not many years ago, when a feeling of gratitude to the British Government for the blessings of peace and protection from wrong which it has bestowed upon this unhappy land, pervaded the minds of the people. But that feeling is fast fading away. One wave after another of rabid radicalism from England and overt sedition from Ireland has, in recent years been rolling over India and spreading disloyalty far and wide. Our journalists and political agitators are simply swimming with the tide and echoing sentiments not their own. They may often be convicted of “bettering the instruction”; but one will try in vain to bring home to any of them a single original idea. The disease seems to have its seat nearer home. If it be not cured there, the Government cannot look for any great improvement in the tone of our journalistic writings and political utterances. In the province of Bengal, however, there is little apprehension that such writings and utterances will produce any evil consequences. The landed gentry—participants in the benefits of the Permanent Settlement—may be reckoned upon being true to their interests; and, being true to their interests, they will stand firm by the Government and defeat all revolutionary movements by which those interests will be necessarily jeopardised. Ought not the Government to make its footing equally secure in the other provinces by granting a Permanent Settlement to the people?

I shall conclude this article with a few remarks upon the Central Provinces. The Financial Statement of 1888 says: “The revision of Settlement takes place during the current decade, commencing with the first year of the present Provincial Contract, 1887-88, and it is estimated, after nine years, to yield an increase of Rs. 1,80,000. Owing to the backward state of the Province, the low rates now paid to Government, and the new developement of the railway system which is taking place, it has been determined to make the new Settlement for terms varying between 12 and 20 years, so that the re assessment of the Province will commence shortly after the termination of the existing revision.” The collection-charges in the Central Provinces are Rx 137,064, being 22 per cent of the gross revenue (Rx 625,674).\* A permanent

\* Note.—See table given above (page 67), shewing the gross Land Revenue, Collection-charges, and net Land Revenue of each Province.



settlement will at once enable the Government to reduce the revenue establishment to the Bengal scale, and effect a saving of Rs. 81,337 = Rs. 813,370 in the collection charges. Is not this much better than grinding the ryots by an endless circle of settlement operations; re-assessment following close upon revision, and revision upon re-assessment. The Government is now in the midst of a revision. Let it be completed; but there should be no re-assessment after this. The Government should make the revised settlements permanent, and bring peace to the people, and prosperity to the Province.

• MOHINY MOHUN ROY,  
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## ART. VI.—MORAL EDUCATION FOR YOUNG INDIA.

AN epoch in the life of India has been reached. Life, as here intended, has two prominent sides, the intellectual and the moral. We write of the latter. The moral life of a people cannot be neglected without the gravest consequences. Intellectuality without morality produces monstrosity in the life. When Greece reached her intellectual acme, the ancient religious life of the people had declined without a substitute, and Greece became a moral wreck. The same was true of Rome, with the addition that Rome touched a depth of moral depravity unknown to the world before. In the days of the French Revolution, France sought to slay religion and ignore the moral life. Reason was enthroned, the sabbath was abolished, death was pronounced an eternal sleep, and the Reign of Terror filled the world with horror. India is rapidly leaving her ancient faiths, and moral anarchy is imminent. In a short discussion of this subject, it may be assumed that it is the right and duty of Government to have some care for the moral education of its subjects. If it be the duty of the State to care for the intellectual education of its subjects, it certainly must be its duty to have some thought for moral education also. The Duke of Wellington said: "Educate men without religion, and you make them but clever devils." Webster, the American statesman, said: "If we rear temples, they will crumble to the dust; but if we work on men's immortal minds—if we endue them with high principles, with the just fear of God and of their fellowmen—we engrave on those tablets something which no time can efface." A few years ago, the late German Emperor, William I, said: "Our religious education must become much deeper and more and more decided; that is of greater importance in the education of the young than the quantity of knowledge. The scientific training of the intellect will not produce moral elevation of character." An able journal recently puts the case thus:—"A godless education merely adds formidable weapons to unlettered brute force."

If it be the duty of the State to educate at all, by no just line of reasoning can it be established that while caring for the mental and physical training of the subject it may neglect the moral. Moral education, strictly so called, is had in view in this paper. Where diverse sects, religions, and denominations are concerned, the State cannot well undertake *religious*

education, and for manifest reasons. These reasons do not apply to the question of moral education, inasmuch as in the sphere of morals, enough that is common to all can be introduced for a broad and effective foundation.

The importance of this subject arrested the attention of the Education Commission five years ago. They reported "a widespread feeling, especially in the Punjab, that something should be done to promote the development of the science of right and wrong in the minds of scholars of all grades." Their inquiries elicited the fact that "some have advocated the preparation of a moral text-book, others of a manual for the guidance of masters, while others again think that the object will be more surely gained by introducing lessons having a moral bearing into the ordinary reading books." In summing up this point they said: "We, therefore, recommend that all inspecting officers and teachers be directed to see that the teaching and discipline of every school are such as to exert a right influence on the manners, the conduct, and the character of the children, and that for the guidance of the masters, a special manual be prepared." One of their recommendations was "that an attempt be made to prepare a moral text-book based on the fundamental principles of natural religion."

The Government of India while heeding much that the Commission recommended, interpreted its own neutrality-principle so rigidly, that these recommendations have not been acted on for five years. Then came the letter, dated Calcutta, 31st December 1887, indicating a desire to "deal with the subject of discipline and moral training in schools and colleges." A conviction of the importance of the subject has been awakened, and the letter states that "no subjects connected with education are more important in the general interests of India, or in the interests of the students themselves." The time has come for "a judicious system of scholastic discipline, and of such moral training, as our policy of strict neutrality on religious matters enables us to apply." It commends, "the whole subject to early and careful attention, for the importance of the considerations thus brought to notice cannot be exaggerated." As to its educational work in India, the letter states that "the intellectual part of the process has made good progress; it remains to introduce the moral element which forms the most prominent factor in the European theory of education." The recommendations of this letter "seek to fill the vacuum which a purely intellectual training has created, and to mitigate the evils of a one-sided training." This letter was followed after six months by a Minute on a Review of the State and Progress of Education in British

India, in which it is stated that, "the subject of discipline and moral training in schools and colleges is regarded by the Governor-General in Council, as one of the most important questions connected with education in India at the present day." Again, "though there is greater difficulty in introducing moral teaching of a non-sectarian character into State than into aided colleges, that difficulty does not seem to have been hitherto seriously faced by Education Departments generally; and until failure follows an earnest effort at imparting moral instruction in colleges, the Government of India is unwilling to admit that success may not be secured." The Supreme Government seems awake, to the importance of this subject.

It is a remarkable fact, and one, the true explanation of which may not be very creditable to them, that a number of Anglo-Indian journals have not been friendly to the attempt of moral instruction in State education. Native papers, in the main, as will be shown, have been friendly to it. It is difficult to account for this opposition to the introduction of moral instruction, unless its *animus* is found in an ill-disguised opposition to the Bible and Christianity—designed or inadvertent. Statements aimed at both unmistakably indicate this *animus*. Minds which have condemned them, and relegated them to the mythologies and superstitions of the past, perhaps because condemned by them, would naturally rally in opposition to any seeming perpetuation of their teaching. Any observer of the moral atmosphere of a section of Anglo-Indian educationists and journalists is familiar with this opposition. It breathes out sneers and invectives. It teaches and lectures scepticism, agnosticism, and atheism. It seizes the opportunity of the class-room and lecture-hall to propagate beliefs that have ever been fatal to morality. Better-thinking Natives have observed and deplored this fact. The *Bombay Guardian* (July 1882) reports Babu P. C. Mozumdar as saying in a speech at Bombay: "Men representing Western materialism had taken into their hands the task of educating the people, and though the Government interdicted the teaching of religion, it did not interdict the teaching of modern materialism, and scepticism, and Bradlaughism, which was spreading and doing havoc among the tens of thousands of the rising youth of Bengal and other Indian Provinces. He (Babu Pratab Chandra Mozumdar) believed the Government was pledged to observe that no arrant infidelity was taught in the name of that neutrality, which was intended only as a pledge of safety to the national religions of India, and he trusted the mischief would be removed before long." The *Liberal and New Dispensation* of January 22nd, 1888, on this subject has the statement that,

"Every care has been taken to import as many godless professors from England as circumstances permit, who boldly declare in class-rooms and lecture-halls that there is no God. They pride themselves in proclaiming from house-tops that they have no faith in any religions of the world, and that those who have, can lay no claim to intellectual attainments." The *Arya Patrika* of March 27th, 1888, the best organ of the Arya Samaj, makes the statement that, "the European professor has, unless we are sadly mistaken, a good deal to answer for the absence of good morals in our students." These references, which might be multiplied, are given in proof of the statement that an ill-disguised hostility to Christianity and the Bible, inspires the opposition to any attempt at moral training in Government schools and colleges.

In remarkable contrast with this supercilious and sneering attitude of certain Anglo-Indians, we note the prevailing tone of the Native Press on the great importance of this subject of moral education. Only a few illustrations out of much that has been written need be here introduced. The Brahmo organ, the *Liberal*, (January 15th, 1888), has an editorial on the Government letter in which it states that "we cannot be sufficiently thankful to the Government of Lord Dufferin for taking up this all-important question. We have all along advocated the introduction of moral training into our schools and colleges, without which mere intellectual attainments cannot be expected to bring about, what we might call, true national advancement. . . . It is a matter of deep regret that with a few honourable exceptions, our countrymen are yet unable to realize the magnitude of the harm which the present system of education is doing among us." A week later, in a long leader on the same subject, we read: "We are, therefore, inexpressibly gratified at the noble attitude which our rulers have assumed towards the introduction of discipline and moral training into the schools and colleges of India. The character and morality of a nation have everywhere been the one thing needful in bringing about its prosperity and greatness, and there is no reason why India should be an exception to the rule." The *Indian Union*, too, welcomed the Government letter with hearty approval. The *Arya Patrika* turns to the subject frequently in terms of commendation of the Government Resolution.

It is an unmistakable fact that the leading and best Natives in India saw at once, as indeed they had seen before, the importance of this subject, and eagerly responded to the interest evinced by the Government of India. If we turn to the current Native literature, we can at once see their reason for anxiety in the matter. The conviction of Government is thus expressed: "It cannot be denied that the general

extension in India of education on these principles has, in some measure, resulted in the growth of tendencies unfavourable to discipline and favourable to irreverence in the rising generation." All this is fully borne out by the Native Press. Only a few specimens need be given. Eight years ago, and before the Education Commission had called attention to the subject of moral training, we read in the *East*: "It is a very lamentable fact that the students of our colleges and schools are found rapidly deteriorating in their morals. They are found to visit houses of ill-fame in numbers which were never witnessed before, and they have imbibed the habit of ridiculing every thing great and good. We hope that those in power will devise some means of stopping this downward course among the students who are really the rising hope of the country." The *Liberal and New Dispensation*, in an article on moral education (January 15th, 1888), calls attention to this unhappy tendency in terms of no uncertain meaning: "It is a matter of deep regret that, with a few honourable exceptions, our countrymen are yet unable to realize the magnitude of the harm which the present system of education is doing among us. . . . The intellect at the expense of the heart can only produce a caricature of humanity. . . . Those who have anything to do with schools in this country must admit that they are daily getting worse and worse, and, unless some wholesome influence is brought to bear on them, there is no knowing where this growing want of discipline may finally land our young men."

The *Arya Patrika* of March 27th, 1888, has a leading article on this subject, from which the following is taken: "Those who have had occasion to meet on intimate terms with, and thus gauged the feelings and sentiments of our graduates and under-graduates, could not have failed to be struck with the utter indifference with which they regard every thing bearing on religion or morality. In some this indifference is carried to such monstrous lengths, that the gravest topic connected with the moral and spiritual welfare of man, which ought to be approached with becoming reverence and seriousness, which ought to be examined and discussed in a devout and reverential spirit, is made the subject of remarks, which are most offensive. . . . It would avail but little to contradict that the majority of those who are sent out from colleges and schools from year to year, are absolute failures as far as good morals are concerned. . . . It would seem that the highest intellectual culture is regarded as synonymous with, or inseparable from a thorough and profound disregard for purity of thought, word, and deed."

If all this is any index to the tendency of the present.

so-called neutral system, no time should be lost in prescribing a remedy. Every right-minded person, having any genuine interest in the moral welfare of India, must agree with the position that "until failure follows an earnest effort at imparting moral instruction in colleges, he (the Governor-General in Council) is unwilling to admit that success may not be secured." Flippant sneers at the subject and humorous remarks about "moral pocket-handkerchiefs," must not blind or divert men of earnest purpose.

Before passing to the discussion of a remedy for this pernicious tendency, we may well dwell for a moment on some of the causes contributing to it. In treating diseases, success depends largely on a proper understanding of their causes. Doubtless the policy of non-interference with the religion of the Natives is, in the main, correct; but exceptions have been made in the case of legislation, in the sheer interests of humanity,—to protect the people against their own crimes or folly. Something, perhaps, must still be done in this line. Neutrality has not been a thing so inviolable that it need be pressed to an absurd extreme in the State education of the country. School-books have been carefully weeded of any thing like the Christian religion, which has been so completely ignored as often to leave the impression that the English are a people without any religion. The *Indian Evangelical Review* for July 1882, thinks that there has been a studied effort made to keep Christian men out of the department. But, be that as it may, to utterly ignore and proscribe moral teaching, must surely in time produce rank immorality.

But it has not been all neutrality. Working under the shield of neutrality, professors, teachers, and educational workers have not scrupled to use their opportunities to attack the religion regarding which they were supposed to be neutral. They have sought to disparage and bring into contempt what has been, on the evidence of scepticism itself, the grandest bulwark of, and inspiration to morality the world has yet seen. The Rev Thomas Evans is authority for the statement that the Principal of a Government College delivered a lecture on atheism to an audience in which was a large number of his students, and at the close invited remarks. A Hindu gentleman arose and replied: "I do not at all agree with the teaching of the learned lecturer, and I think it is a great pity that Government should employ as professors, to teach our children, men who do not believe in a God; and the sooner we have reformation in this matter, the better for us and for our children." Dr. Murdoch, a careful observer, and for more than forty years an educational worker in India and Ceylon, states that the agnostic is admitted to the lecture-platform of some

Government schools, while the Christian lectures is rigidly excluded. Samuel Smith, M. P., in his "India Revisited" says: "There have been, and still are painful instances of Government colleges whose whole influence is thrown against Christianity. The heads of some of these institutions are pronounced agnostics, and miss no opportunity of instilling scepticism into the youth under their charge."

Such quotations need not be multiplied to show that under the garb of neutrality, men have been trying to destroy the best safeguard of morality the world has ever seen. They that sow the wind shall reap the whirlwind. The irreverence, irresponsibility, and lawlessness begotten of materialistic, agnostic, and atheistical teaching will bear their legitimate fruit of immorality. A very natural product of such tutorship is, as the *Arya Patrika* puts it, an "indifference carried to such monstrous lengths, that the gravest topic connected with the moral and spiritual welfare of man... is made the subject of remarks which are most offensive and revolting to one's moral instincts," together with "a thorough and profound disregard for purity of thought, word, and deed."

Still another reason for the unhappy tendency under discussion is found in the unhinging and destructive nature of the enlightenment obtained in our schools. As the letter of His Excellency aptly puts it: "Such tendencies are probably inseparable from the emancipation of thought which is one of the most noticeable results of our educational system." Enlightenment often brings unbelief, and unbelief brings lawlessness. The popular forms of belief in India must pass away, and are doing so under the solvent of our education. Even these popular beliefs, and the more ancient and subtler philosophies and theologies from which they sprang—or at least which they overgrew—had a certain ethical value as a restraint on vice and lawlessness. Critics are continually harping on the intolerance of Missionaries, and their inability to appreciate anything in the systems they encounter; and yet no one sees more clearly than the Missionaries the ethical value of the systems they seek to supplant. It was Bacon, and not a Missionary, who said that idolatry is worse than atheism, because the latter merely denies the existence of God, while the former misrepresents Him. Much in the systems of India has a restraining influence, holding in check the spirit of lawlessness which, according to St. John, is the essence of sin. Take away this check, and moral anarchy and collapse must follow. These systems foster the idea of subordination and responsibility to a Supreme One who has some kind of government over the world. There is something higher than man; something to which he must be reverent and obedient, or suffer. Like Greece and Rome, India

is losing faith in her gods, and the ancestral religion is passing away. The system of education which has been playing on the mind of India does not even give a stone for that which is taken away. Swept of the old belief and garnished, what an opportunity for the seven-fold spirit of selfishness, irreverence, and lawlessness to enter. And this is becoming, or has become, the position of the India of to-day.

There is some hope in the fact that a paternal Government discerns the evil, and is casting about for a remedy. The recommendation of the Education Commission and the Government of India Letter give an outline of what may be attempted in the matter. All is in mere outline, of course ; but this outline can be filled in and worked out by those to whom the work is committed. It is easy to raise objections, and seek to make the subject look ridiculous ; but that does not prove that the attempt at reform is either unwise or impracticable. If the bold position be taken that the State has no business with moral education, then why with any education, mental or physical ? But, if with these, then why not with moral education ? Why should the State divide a man into three parts, and undertake, in some degree, the education of two parts, and ignore the third ? If the State has any right or duty in the matter of education, such duty applies to the entire man. We are not pleading for interference with religion in India or any other country ; but there are certain rules of moral principle and practice common to all nations, which can be inculcated with as much propriety as any ordinary matter of science or sanitation. It is sheer quibbling and obstructiveness to deny this. It is not proposed in this paper to undertake details. This is the work of men to whom may be committed the duty of working up a plain Code on the subject. But it may be broadly pointed out that what is required must be grouped under three heads : (1) Teachers, (2) Discipline, (3) Books. All these should be made a source of moral training.

It is worthy of remark that on this subject Native journals make much of the influence of the teacher. The *Hindu Patriot* puts it thus : "In devising measures of discipline and obedience it is necessary, therefore, to provide not only penalties for offenders against discipline, but to put in power only men who, by their high moral character and sympathetic disposition, are fitted to command respect and sympathy." The *Arya Patrika* (April 17th, 1888) says : "The ways and habits of the learners will be found, in the majority of cases, if not invariably to be the surest means of forming an idea of the character of the teacher. A teacher but reproduces himself in his pupils. . . . The character of the teacher, to be brief, moulds the character of his pupils. It is, therefore, of the utmost importance that the



men who are entrusted with the education and instruction of children should be men of the most elevated moral character. . . . Care should, therefore, be taken that he to whose charge and responsibility the child is consigned, is a man of unimpeachable moral character, one who is chaste in thought, word, and deed." The editor of the *Liberal and New Dispensation* (January 22nd, 1888) remarks, that he would prefer even sectarian teaching, than "to leave our young men in the hands of people who reverence no one but themselves." He adds: "In England there are antidotes to poisonous teachings, which are conspicuous by their absence here. . . . If it were otherwise, Herbert Spencer and Professor Huxley would have carried the day against all others. But the fact is that for one such interpreter of Nature, there are a dozen who lead their hearers to a true sense of religion and piety." It should be noted that these are not Christian papers. The wisest and best Natives in India are ready to second and support any method which will secure good moral influence in the schools.

It is preposterous to object to any State censorship of morals and opinions. Something of this we have already, and must have. Already the State takes cognizance of the moral record of its employes, and tries to keep as clean a sheet as possible. And as to opinions, a Christian State has as much right to protect its subjects against moral wreck, as to preserve itself against political wreck, by taking cognizance of seditious teachings. Censorship, under checks of course, we must have, or the worst evils of irresponsibility and anarchy must follow. College professors should understand that if their halls and class-rooms are not the place to teach Christian dogma and the faith of creeds, neither are they the place, while sneering at the faith of the State, to teach *isms* subversive of that faith, and which have never earned any credit whatever as moral renovators of mankind. As to ordinary teachers the suggestion of the Government Letter is a good one for doing something to furnish a better moral class of teachers than can be had by absence of care in the matter. It contemplates "the provision of efficient training schools and colleges for teachers, and the employment as teachers of those only who have given satisfaction during a course of training."

As regards discipline for the school, which of course already exists to a certain extent, we have a matter needing more thorough organization and more wide-spread application. In the Government letter, we have some good outline-hints on what may be attempted relating to "the repression of breaches of discipline in accordance with certain well-defined rules," the use of "conduct registers," and a system of monitors having some oversight of the conduct of

pupils in and out of school. All this could be worked into a more perfect system than anything now in use. Certain critics have little faith in this. It is supposed that it will tend largely to make a class of hypocrites, who are not good from right motives, if to some extent they are outwardly good. Mankind, it is said, cannot be bribed into virtue. An air of absurdity is thrown over the whole subject as something not to be thought of or attempted as a serious effort at drilling morality into the schools. One cannot help wondering how these critics and obstructionists would proceed to improve the morals of the rising generation. A reference to a little passage at arms that occurred not long since at a meeting of the Nineteenth Century Club in New York city, will put this whole subject in its true light. There were numerous sceptics and free-thinkers at the meeting, and Julian Hawthorn read a paper on Society, as seen from the standpoint of "advanced thinkers." Mr. Hawthorn's position was, that man is kept in order by the Church and society, by a system of punishments and rewards; that man is not good from proper motives, but lives and dies a hypocrite; that some other system is needed to regenerate mankind and produce a nobler manhood, not actuated by sordid fear and hope. Chanty M. Dupew was called upon to reply in a speech to Mr. Hawthorn's argument, which he did in a most telling manner. Among other things he said: "A better society never has, and never will, exist than that in New England for its first one hundred and fifty years: its whole life was dominated by the family Bible. You are all familiar with the care and growth of children. Fear and rewards have always been the elements of their education. From the first dawns of intelligence they are taught that they will be punished if they do wrong, and benefited if they do right, both here and hereafter. If this system was abandoned, and an effort made to find some higher nature which would assert itself in a beautiful and reverent life, the boy would break the windows, smash the looking-glasses, maul his younger brothers and sisters, cut up your best picture, and finally cut your throat. The old-fashioned way of arousing fears and inspiring hopes does not make these children hypocrites. A conscience is gradually aroused within them. By its teachings they act, because it is more gratifying in every sense to rightly live; and these boys and girls, instead of becoming broken or mean-spirited, are full of sensitive honour and pure aspirations." We may depend upon it, if lads and young men have laid down for them rules demanding reverence, obedience, peace, promptness, truthfulness, honesty, and fairness, and these are enforced by suitable rewards and punishments, something effective will

be done to build up a better character than will come by an evangel that seeks to overcome vice by some transcendental motives, that keep clear of the regions of "sordid fear and hope."

Turning to the question of moral teaching and of a moral text-book, one point to be noted is that the subject of clean and expurgated books must not be overlooked in dealing with moral education. Vigilance is required. Native literature of a most pestiferous character will find its way into the vernacular schools if a censorship is not exercised. The reasons and the law which forbid the sale of indecent prints and pictures apply with exactly equivalent force to the sale of indecent literature. In the matter of a moral text-book, it is a curious fact that the Anglo-Indian Press has been much more inclined to treat the subject with doubt or ridicule than the Native Press. The latter is, to a large extent, in favour of moral lessons. Some Native papers are a little chary on the subject, doubtless from jealousy of moral influence derogatory to their religion; but this is exceptional, as indicated by the periodicals which have passed under the eye of the writer, representing Bengal, the North-West and the Punjab. The fact is that the country is ready and ripe for any reasonable reform. A few references will prove this. The *Indian Union* (January 11th, 1888), soon followed the Government letter with an article containing this statement: "We venture to observe that a manual on pure morality drawn from the Bible, the Kurān, the Mahabharat, and Ramayan, if compiled by an expert English and oriental scholar, would doubtless be alike acceptable to all classes of students, and highly answer the requirements of modern India." The *Lahore Tribune* (February 25th, 1888), states "that considerable good would result if a really good book of morals could be written or compiled." The writer then gives a long list of books, mostly in English, that might be drawn on for this purpose. The *Liberal and New Dispensation* (January 22nd, 1888), enters at length into the whole subject, and, while granting that religious teaching cannot be undertaken in the schools, says: "This difficulty does not extend to moral teaching." In a later issue (May 20th, 1888), it returns to the subject and recommends the use of such books as Paley's Natural Theology, Prescott's Moral Education, Chamber's Moral Class-book, and Mrs. Bray's Elements of Morality. The *Arya Patrika* thus appeals to the Committee of the Dyanand Anglo-Vedic College at Lahore: "The Sanskrit books at present taught in our schools are extremely defective from a moral point of view. They are incapable of generating and fostering that spirit of moral elevation in boys, which is so necessary for them."

on their entrance into the arena of life. . . . . The Managing Committee should no longer neglect the duty which they have bound themselves to discharge. They ought to provide the school with a series of Sanskrit and Hindi books, which should be especially designed to imbue our boys with the right principles of thought and action."

Years ago Keshab Chandra Sen recommended Paley's *Natural Theology* as a College text-book. When Sir Madhava Rao was Dewan of Travancore, he felt the need of moral teaching in the State schools, and himself prepared a text-book called "*Principles of Morality*." He made God's law the standard of virtue and duty. When, some years ago, the Senate of the Madras University excluded Moral Philosophy, except as an optional study, *Native Public Opinion* commented on the change in terms of no uncertain meaning; "We are bound to protest in the most emphatic terms against the exclusion of general ethics from the system of studies prescribed for the University Examinations. Our surprise is really inexpressible at finding that it is seriously contemplated to remove this subject of vital importance from even the B. A. Course, and place it in the category of optional studies. . . . Can absurdity further go? We should, on the other hand, insist with all our might upon having ethics carefully taught as soon as the student is able to understand ordinary English."

It is matter of no small interest to know that Native enterprise has outstripped tardy and cautious "neutrality." Last year Lala Kashi Nath translated, and the Arya Darpan Press of Shahjahanpur printed, Professor Blackie's "*Self Culture, Intellectual, Physical, and Moral*." This book is now prescribed in the Hindi Proficiency Course of the Punjab University, and in the curriculum of the Normal schools in Oudh. It thus appears that our enterprising Native subjects have actually outrun the Government. The translator says in his preface: "The book treats of pure morality, and teaches young men, in a very befitting manner, to cultivate good habits and learn what will make them happy and useful members of society." He has put the "moral culture," part first, which treats of "obedience," "truthfulness," "industry," "fairness," "self-restraint," "avarice," "fortitude," "prayer to God," &c. While we are doubting and quibbling, here is a "moral text-book," translated and printed by a Native, and pushed into the schools. As has been remarked, India is ripe for any reasonable reform in this matter, so vital to the well-being and happiness of her people.

Coming directly to the question of moral instruction by books, there are three special ways by which such instruction may be worked into the Government educational system from

the bottom to the top ; first, by moral lessons in the ordinary reading books ; secondly, by the use, collaterally, or at some stage of a moral text-book, dealing in outline, and by easy methods, with the virtues and duties universally recognized ; thirdly, by the careful teaching in college of the Science of Ethics. Something of this we have already, and it remains to work up the subject in a more systematic and effective form so as to make it a component part of State education. The above mentioned "ways" are taken up briefly in the order given.

The school-book should be leavened with moral truth and incentives to virtue. "What you would put into the life of a nation, put into its schools," says a German author, which may be rendered 'put into its school-books.' Again, it has been said : "Make the school-books of a nation, and let who will make its laws." The Education Commission pressed this matter on the attention of Government ; and now that the whole subject is under consideration, the advice given in the Letter of December 31st, 1887, is much in point : "In all cases it is desirable to review the text-books now in use in the light of the Secretary of State's Despatch, and to re-cast them, possibly with the view of introducing into them extracts from the various great writers who have dealt with the question of personal conduct in its various aspects." This subject has not been entirely overlooked by Government in the past. The Christian Vernacular Educational Society's school-books are well leavened with moral teaching ; but as they have in them religious teaching, they are, perhaps, not in use in any Government schools. Lauries' Oriental Readers, prepared for India, however, are used in some Government schools, and out of 174 lessons in the book there are 33 with moral instruction in them. Thus, a good deal can be done without straining "neutrality" ; and the small moral doses have produced no unhappy revulsions or dangerous symptoms among Her Majesty's Indian subjects. It remains for a General Educational Committee or Commission to bring the matter to a state of greater effectiveness, by infusing a little more morality, and seeing that schools in every direction use books of the kind, both in the vernacular and English. Fundamental principles and virtues should find a place and not be diluted to a state of vagueness. God, responsibility to Him, prayer, obedience to conscience, truthfulness, honesty, justice, sexual purity, forgiveness, and such themes will meet with the approval of all right-thinking Natives. Indeed, some of the lessons could be taken from Native authors.

The question of a moral text-book, or manual on morals, has been dealt with more charily. The recommendation of the Educational Commission in 1883 was considered by the Government of India and Secretary of State, but was not supported.

Afterwards, the Secretary of State, Lord Kimberly, though not accepting the suggestion of the Commission, expressed the opinion that, possibly, at some time, a "book of moral rules may be written, of such merit as to render its use desirable." Government seems to have been incredulous of the efficiency of moral text-books, or excessively cautious of offending the moral feeling of the people of India, which is curious enough in view of some of its legislation touching moral and humanitarian matters. However, it is satisfactory, to the friends of this movement, European and Native, to learn that it is now the opinion of the Secretary of State, that it "is the duty of the Government to face this problem, and not to be content until a serious endeavour has been made to supply what cannot fail to be regarded as a grave defect in the educational system of India." The Secretary of State calls attention to the books of moral lessons in use in England, and suggests that a book of similar character might be prepared for India. The subject is thus fairly before us, and is not fraught with as much difficulty as has been imagined. The chief difficulty will be in the teachers, who often will themselves be so far below the standard of the book, that there will be a manifest incongruity between the teacher and his lesson. However, the moral instruction will not necessarily be lost on the pupil, and the teacher may also be improved by it; and indeed this may be considered one of the best means of fitting the teachers themselves for exercising a better moral influence on their pupils.

This moral text book should be adapted to all preparatory and lower class schools; that is, it should be a book not reserved for higher classes only. It should not be an elaborate Science of Ethics, but be rather a somewhat systematic course of lessons covering the main features of moral life, and indicating such duties and obligations in various relations of life as commend themselves to the moral sense of men of all creeds. Domestic, social, and civil duties and obligations could be explained and illustrated. No very guarded effort need be made to make it simply a book of "Natural Religion." Moral obligation, based on responsibility to a Supreme Ruler, should be freely admitted. Sir Madhava Rao's little book "Principles of Morality," which has been already mentioned above, has the right ring: "Recognition of His eternal existence; acknowledgment that He alone is the disposer and governor of all things; the use of all the means in our power to ascertain His will; fear, love, submission, honour, worship by praise, prayer, confession of sin, and thanksgiving for mercies received." It would not be difficult to obtain suitable extracts from some of the religious books of India, and such a course would make the moral text-book more acceptable.

In fine, the preparation of a good text-book need not be accompanied with much difficulty. In 1883, Sir Roper Lethbridge prepared, and Messrs. Thacker, Spink & Co. published, a Moral Text-book for Indian Schools, on the plan of extracts and lessons from European and Indian sources. About 15,000 copies of this book have been sold and used chiefly in the Punjab and North-Western Provinces.\* This book has much to commend it, till something better can be provided.

We now come to our third mode of imparting moral instruction. In the higher or college education the Science of Ethics should have a well-recognized place, and be taught in no dubious or hesitant way. The importance of this subject was recognized early in the history of public education in India. Kerr, in a review of Public Instruction in the Bengal Presidency, states that the Court of Directors at an early period desired the moral improvement of the Natives, and "directed that a professor should be appointed to lecture on Jurisprudence and Morals, without having any other duty to perform." The desire was not carried out; and in 1840, Mr. Cameron, in a minute on this subject, states that because debarred by neutrality from teaching religion, "it is, therefore, more incumbent upon us than on other ministries of public instruction, to teach morality in the form of Moral Philosophy." This good purpose has never been lost sight of by Government; but the extreme cautiousness in maintaining non-interference with the religions of the country has resulted in a disastrously feeble policy, and the moral element in education has been at a sad discount. No wonder that Englishmen have sometimes seemed to the Natives a race without a religion!

An attempt has been made to raise grave difficulty over the disputed basis of Ethics. What, it is asked, is the basis of Ethics? Utility, expediency, some non-theistic religion of humanity, or the will of God? In the clash of rival systems, it is urged we have nothing positive to offer. But well-wishers of India must not be thrown off the track by such strategy. It has yet to be demonstrated to the world that a moral system without a deity in it has any real moral power. The present crisis is no time for speculation, and experiments; nor is this what the better-thinking Natives want for their country. The sturdy standard of Sir Madhava Rao in his "Principles of Morality," is the keynote: "The Law of God is the standard by which the judgments of the moral faculty are guided." And here, again, any quibble raised over the question of how we are to know the supposed law of God must not divert or paralyze the well-meant effort to teach a morality with the only effective basis we really know of. For all practical purposes, responsibility to a living

Creator, as gathered from Natural Religion, and as recognized by the best Native minds in their religious books, is quite sufficient. Fifteen years ago the *Indian Mirror* (July 27th, 1873) spoke out nobly on this subject in reply to the *Englishman's* objection to ethical teaching, founded on responsibility to a living Creator. The *Mirror* said that if the Government should adopt such an infidel system of education, "there would be a tremendous outcry against it throughout all India, and all sects would unite in protest against it. . . . The morality we demand is real morality of conscience, based upon the universal belief in a Supreme Moral Governor. This is neither new religion nor new morality, nor is it an innovation in State education in India." India does not want God eliminated from her Moral Philosophy. It may well be doubted if much good will come from teaching rival theories. A comparison of such theories—simply to show the learner their existence, and to indicate their unsatisfactory character, and to strengthen the sense of responsibility to a Supreme Moral Being—might be useful, but the morals of India's rising generation are not to be improved by ridding the universe of God. Any system of morals in which this is done should be discarded, and teachers attempting to teach such a system should be, *ipso facto*, disqualified for this post. They are but sowers of dragon's teeth. With a generation or two of such teaching, India would be as devoid of morals as was Rome at the beginning of the Christian era; "when," as Mr. Dupew said, "the world was peopled with wild beasts." Of course, intolerant sceptics will put in the plea of intolerance here; but we are dealing with a very grave matter, and have no right to permit dangerous experiments with the moral life of a people. Besides, the State is Christian, and has a right, while it continues such, to maintain a Christian attitude in protecting and promoting the moral life of its subjects. We are urging no innovation and no departure from neutrality. What we urge is approved by all right-thinking Natives. Ethical teaching, based on man's responsibility to an intelligent Creator, exists already in the educational system of India, and only needs to be developed and strengthened.

An important question in this matter of promoting the moral life of India is, What more can the State do in encouraging aided schools and colleges in which religious instruction may be given? It may well be doubted if much can be done to cultivate man's moral nature without collaterally, and perhaps, first seeking to cultivate his religious nature. As the distinction between moral and religious training is referred to continually in the consideration of this subject, it is well to keep clearly before our minds what the distinction, as technically



understood is. Morality has special reference to man's relation and duty to his fellow-man, the whole being referred, it may be, to the Divine will. Religion is the recognition of God as an object of obedience, love, and worship. It is a feeling of moral obligation influencing the heart toward God. Motives of duty are founded on the will of God. Etymologically, religion is that which binds man to God *and is just what India needs in the present crisis*. Objectively considered, religion may be taught as natural or revealed. This is doctrine or dogma; the *cultus*, or worship of religion, is the outward expression of the religious sentiment. All history establishes the fact that man is a religious being; his moral nature cannot be effectively developed independently of his religious nature. The great Washington said: "Let us with caution indulge the supposition that morality can be maintained without religion." In the sphere of religious education, the State in India has sought to observe strict neutrality; but the difficulty of ignoring the religious sentiment, and of totally disavowing moral and religious education, is becoming more manifest. Moral education cannot stand alone, and besides, no education that is carried on by halves or in sections, can completely educate man. The Educational Commission was confronted with this difficulty. "The value of religious education was admitted on all sides." It was hoped that, "home instruction and the increase of aided schools in which religious education may be freely given would, to a large extent, minimize the recognized evil of banishing religion, &c." In the Letter of December 31st, 1887, the Government expresses its desire on this point; and, the Governor-General in Council would be sincerely glad, if the number of aided schools and colleges in which religious instruction is prominently recognized, were largely increased; and this significant categorical sentence is added: "It is in this direction that the best solution of this difficult problem can be found."

While observing its policy of religious neutrality, the State can encourage voluntary religious education by encouraging more fully, "aided schools and colleges in which religious instruction is prominently recognized." If it be said that this must encourage also schools in which Hinduism and Islamism are taught, our reply is that Islamism and Hinduism (which recognize a God) are better than atheism and moral lawlessness. Besides, the grant-in-aid checks would eliminate positively worthless or vicious schools. Under proper encouragement Christian aided schools might be largely increased. The religious element would be, as now, Bible-instruction, prayer in the school, the effective use of moral and religious lessons, moral text-books, and the personal influence of religious teachers

and superintendents. It is the grossest misrepresentation for the opponents of such education to urge that there is anything unfair or coercive in it: Communities are left to the fullest liberty to avail themselves of such educational opportunities or to avoid them.

If the Government desires, in the interests of moral and religious education, that the number of such institutions be "largely increased," this can be effected by a wise use of the grant-in-aid system; and with economy to the State, by gradually withdrawing where the field is being well occupied. In many instances there is such sharp rivalry that Government has a good reason for withdrawing. Two specific points may be made here in illustrating the way Government may encourage voluntary educational effort by the grant-in-aid system: (1) By preventing local or official influence from withdrawing grants-in-aid on merely religious grounds. Notwithstanding the declared policy of Government on this point, and its direction to educational officers to take no notice of the religious instruction in aided schools, evidence can be produced to show that in some instances, officials have made Christian instruction the ground for withholding aid. Such action should be sternly repressed. (2) The grant-in-aid rules should not be encumbered with such hard conditions as to really obstruct aided institutions. It is to be feared that to some extent and as sometimes applied, these rules might more accurately be called *grant-in-obstruction rules*. The right or propriety of the State to maintain some supervision over schools using the State funds is not disputed. Indeed, it is of great utility that the State should carefully exercise such supervision; but unfortunately in the case of officials who are unfriendly to everything but merely secular education, such supervision becomes a means of obstruction and repression. To illustrate: grants have been withheld under the plea of discouraging "proselytizing schools;" the use of any but Government books is discouraged; the aided schools are pressed into such competition with Government schools, that no time is left for moral and religious education; the independent management and internal arrangements of the school are cramped and hampered, till but little remains besides the Government standard of things. A Missionary Report on this subject has the following statement: "The tendency is more and more to repress independence, and reduce all schools to one rigid procrustean form, after a Government model. One Inspector lately went the length of issuing an order to the schools in his district to use only the Government books. . . . The internal economy of even aided schools is, to a very large extent, taken out of the hands of the managers, and put

into the hands of Government officials." Perhaps the treatment of girls' schools is more liberal; and yet some of the grant-in-aid rules preclude assistance being given to very good schools. One rule is that "aid is not given to a school at which the average daily attendance is less than twenty." Female education is still surrounded with great difficulty in India, and this rule excludes many a worthy school. Again, the inspection of these schools by Government officers has sometimes been injuriously enforced, and that, too, when thoroughly competent and trustworthy inspection was otherwise guaranteed.

In reply to the above it may be said, that without this close and dominating supervision, the education of these aided schools would be very defective. Without granting this point, or entering into its discussion in this paper, suppose it be admitted that this supervision secures better secular education than might be secured with less obstructive supervision, mere secular knowledge is not the end, all and be all of true education. The great question now under the consideration of Government is how may *moral education*, hitherto so neglected, be promoted. His Excellency the Governor-General in Council sees "the best solution of this difficult problem" in "aided schools and colleges in which religious instruction is prominently recognized." Now, if these institutions are to increase and prosper, they must be allowed to do so in their own way. They must be permitted to sacrifice,—as measured by the standard of Government inspectors and university examinations—something of secular efficiency to moral worth and character. If Government desires, as the Letter indicates, "to fill the vacuum which a purely intellectual training has created, and to mitigate the evils of a one-sided development," the way is plain, and (as remarked by the Secretary of State) "should not be lost sight of until something practical has been done."

For the reader's convenience, I sum up the substance of my arguments and recommendations:—

I. Government has fairly opened the way for reform on the question of morality in schools, and should not recede. It is the duty of the State to give attention to the *moral* education of its subjects. Educated India is now being demoralized.

II. Certain Anglo-Indians do not approve of Government touching this subject. Natives, on the other hand, do approve, as attested by extracts from speeches and writings.

III. Causes of moral deterioration in India are: (1) "neutrality"—the moral life of the people being almost entirely neglected; (2) immoral and infidel teachers, producing scepticism and consequent lawlessness; (3) the unhinging nature of the new enlightenment and civilization.

IV. *Remedies*:—Better teachers, better discipline, and better

books. A moral text-book and moral lessons are feasible, and are desired by the Natives. The system of Ethics taught should recognize a Divine Being.

V. *Importance of religious education.* Morality cannot stand alone. Aided schools and colleges the best solution in this direction.

VI. What can Government do? Less stringent and obstructive grant-in aid rules. The State must be content with less satisfactory results in purely secular studies in aided institutions.

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## ART. VII.—THE CONFESSIONS OF ST. AUGUSTINE.

RELIGIOUS or semi-religious literature is somewhat at a discount in Anglo-Indian Society ; but, excluding the fortunate few whose lines are cast in Presidency towns and hill-stations, the life of the ordinary Anglo-Indian official is so dull, dreary, and monotonous, that the aid of religion seems to be a *sine quid non* for the performance of duty and the banishment of despondency and discontent. There are, however, in most Mofussil stations—we speak of the Province of Lower Bengal—no aids to religion in the shape of church services, spiritual pastors and masters, or other Christianizing influences. Stations are thinning from year to year,—some contain not more than one or two European officials ; and it is no exaggeration to say that in some seven or eight districts in the Lower Provinces, the lot of the Mofussil official is hardly, if at all, superior to that of a Siberian exile. “ To scorn delights and live laborious days ” has been the secret of many a man’s success. The Mofussil exile has already accomplished half the above precept without any particular exertion on his own part, there being no delights either to be enjoyed or despised. It remains but to live laborious days ; and as there are no distractions, it might be supposed that this were an easy matter. But, in our opinion, it is the very absence of distractions that renders hard sustained work so difficult of attainment, and deprives it of half of its pleasure and glory. The greatest geniuses have generally been subject to terrible fits of reaction ; desultoriness and spasmodic fitfulness have often marked the best literary efforts. An occasional plunge into a vortex of excitement is, perhaps, the best antidote for overwork, and the surest renovator of jaded energies. Herein lies the disadvantage of the Mofussil exile ; he is precluded from the stimulating influences of change and contrast, he is shut out from all excitement or variety of occupation. His life is one “ one demd horrid grind,” one dull and deadly round of never-ending monotony. No wonder that he should often degenerate and go to seed ! For reasons such as these it is that most hard literary work is done in cities, and not far from the busy hum of men. It is probable that London, paradoxical as it may seem, is more conducive to hard work than any other place. The Mofussil official may be a worshipper of red-tape and office bundles, without a soul or idea beyond, or a man who lets day after day flow away, without any effort to utilize or make the most of his intellectual talents, only eager for the

time when he can shuffle off his Indian coil, and retire to his native land. Spurious ambition may not be uncommon ; but real ambition, combined with sustained effort towards definite aims, and an earnest conception of life and duty, are rare ; and we hold that they are rare owing to a great extent to the unnatural conditions of life in this country, and especially the deadly and, we must add, demoralizing effects of Mofussil exile. This poem serves to explain our object in giving some account of the "Confessions of St. Augustine." The writings of some of the old divines are peculiarly suitable for Mofussil exiles, and readers, whose taste has been vitiated by strong and repeated doses of Zola-Daudet mixture, will find it a wholesome and beneficial tonic to peruse such books as Thomas à Kempis' "Imitation of Christ," the "Meditations of Marcus Aurelius Antoninus," and the "Confessions" above mentioned. These books contain much that is comforting and consoling to the Anglo-Indian who is often worried with the thought that he is throwing away the best years of life, and ruining his constitution in a pestilential climate. They are aids to devotion, and to the living of a nobler and higher life, and it is only the living of such a life that lightens duty, and helps to dispel the clouds of black care and dull depression, that settle down from time to time on even the most determined labourers and the most earnest of Christians.

The "Confessions" as an autobiography consist of ten books, the three last books dealing chiefly with the Mosait account of the Creation. In the first book St. Augustine traces his life from its earliest stages up to the age of fifteen years. He acknowledges the sins of infancy and childhood, and confesses how he was then more fond of play and boyish amusements than of study. Flogging was at that time "held in high repute," and "our parents laughed at the tortures which we boys suffered at the hands of our masters." We fancy many a Bengali parent of the old school would be glad to have an opportunity of laughing at the tortures of his schoolboy-son ; but corporal punishment is almost unheard of in Bengal schools and colleges, and is becoming uncommon even in village patshalas. When he was still but a boy, Augustine was seized with a violent illness, from which he almost died, and during which he earnestly asked for baptism. As, however, he recovered, his mother put it off—

Therefore my cleansing was put off, because, should I live, I should inevitably get defiled again ; and sin after Baptism is of a deeper dye, and fraught with greater danger to the soul than sin before it.

He tells us that he liked Latin, but hated Greek, because the difficulty of learning a foreign tongue gave, as it were, a flavour

of gall to the sweets of Grecian fable. "For I knew none of the words, and, in order to make me know them, I was forced on by cruel threats and penalties." Latin, on the other hand, was learned amidst the caresses of nurses; the jokes of those who had fun with him, and the merriment of those who played with him. There is a characteristic and powerful denunciation of the mode of educating the young by describing the gods as having all the baser attributes of man. Cicero\* says: "Homer feigned these things, and transferred human actions to the gods; would I not rather that he had brought down divine things to us?" Upon which Augustine remarks that it would have been nearer the truth had he said: "He indeed feigned these things; but, by attributing a divine nature to infamous men, crimes were no longer reckoned as crimes, so that those who committed them seemed to be imitating not abandoned men, but the celestial gods."

And yet, thou to rent of hell, unto thee the sons of men are hurled, with rewards for this learning; and a great affair is made of it, when this goes on publicly in the forum, in the sight of laws which allot salaries in addition to the stipend.

Terence † introduces a licentious youth, proposing to himself Jupiter as an example of debauchery, whilst he looks at a picture on the wall, in which it was portrayed how Jupiter once descended as a golden shower into Danaë's lap, and thus imposed upon her. "But what god?" says Terence, "was it not he who with his thunder shakes the highest temples of heaven, and may not I, poor man, do this? And so I did it, and that willingly." Augustine remarks that he does not blame the words themselves, which are choice and precious vessels;

But the wine of error in them was given us to drink by those teachers,—drunken themselves with the same—who forced it upon us, so that we were beaten if we did not drink it, neither had we any sober judge to whom we might appeal. And yet I willingly learned these things, and unhappily delighted in them; and on this account was called a hopeful boy.

He also relates, as an instance of the absurdities on which he wasted his talents, how he recited the words of Juno ‡ angry and remorseful, because she could not turn away the Trojan King from Italy.

And what good was it to me, O my true Life, my God, that my recitation was applauded beyond so many of my own age and class? Was it not all smoke and wind? And was there nothing else upon which my talents and my tongue might have been exercised?

\* Tuscul. I. c. 26.

† Eunuchus, Act iii., Scen. 5.  
‡ Æneid, i. 36-75.

Men were more concerned in observing the rules of grammar than the law of God. We know from the poems of Catullus that Rome had its "Arries" as objectionable as those of Stepney and Whitechapel; and Augustine remarks that "if a man should, contrary to the rules of grammar, drop an 'h,' he would more offend men than if he, a man himself, hated a man contrary to Thy precepts."

The second book deals with the period of Augustine's life which commenced at sixteen, when, having given up study in his father's house, he indulged his own wills and desires. He remembers this time with deep remorse, and marvels at the way he was betrayed into committing a theft; and yet, he remarks, the human heart is not led into evil, unless, in some way, evil presents itself under the form of good. It delighted him to love and be loved; but the clearness of true love could not be discerned from the thick mist of sensuality. Both boiled together confusedly within him, and carried away his weak young life over the precipices of passion. He bewails that his friends took no care to hinder his ruin by lawful wedlock; "but only took care that he should learn to make an excellent speech, and become a persuasive orator." So he wonders that his father, who was but a poor freeman in Thagaste, paid his expenses to Carthage for the completion of his education; and yet this same father had no concern for his spiritual progress, nor for the purity of his life, so long as he became a cultivated speaker. He now mentions for the first time his mother, the saintly Monica, who half wished that he should marry, and so restrain the desires of youth within the boundaries of conjugal affection, and yet hesitated to recommend this course, lest a wife should turn out to be an obstacle and a clog to his hopes. It seems from the following passage that Rome was no better than in the days of Ovid and Juvenal:

But I made myself out more vicious, that I might not be blamed; and when I had it not in my power to equal these abandoned ones, I feigned that I had done what I had not done, lest I should seem less honourable from being more innocent, and be accounted of less importance because I was more chaste.

'The child is father of the man' is a rule that did not altogether apply to Augustine's life. He appears to have been particularly depraved in his seventeenth year, and describes how he committed a wanton theft:

Yet I resolved to commit a theft, and I committed it, compelled neither by want nor poverty, but through a loathing of honesty and a lust for iniquity, for I stole that of which I had already plenty, and much better; neither did I want to enjoy what I longed to steal, but to joy in the act of thieving and the sin. There was a pear-tree near our vineyard laden



with fruit, tempting neither for colour nor sweetness. To shake and rob this tree, we bad young fellows went late one night, after we had been racketting according to our abominable habit in the streets till then; and we carried off great loads, not for a feast, for, having only just bitten them, we flung them to the pigs, and the only pleasure we had in this was that we were doing what we ought not.

And yet, he says, no one commits a crime without some motive. Who can believe that a murder would be committed simply for the delight of murdering? Even the wicked Cataline did not love his crimes. Sallust makes him say that he committed crimes "to keep his hand in,"—to use a vulgar expression; "lest," says he, "through idleness my hand or mind should lose its powers."\* Augustine comes to the conclusion that he committed the theft from the love of sinning in companionship; had he been alone, he would not have committed the theft. His pleasure did not lie in the pears, but in the sort of exploit which the presence of accomplices in the sin made it.

From his seventeenth to his nineteenth year, Augustine resided at Carthage, where he tells us, though he stayed for the sake of study, he freely gave himself up to plays and infamous practices. He had a passion for seeing tragedies. Why is it, he asks, that man likes to taste an unnecessary sorrow, by beholding distressing and tragical events which he would not wish to happen to himself? And yet, as a spectator, he wills to be touched with sorrow for them, and this sorrow is his pleasure. What is this but a miserable madness? At this time he was head in the rhetoric school, and was puffed up with self-conceit in consequence. The "Hortensius" of Cicero appears to have exercised a most powerful influence over him, and turned his thoughts towards more serious things.

This book, indeed, wrought a change in my affections, and turned my progress to Thyself, O Lord, and altered my purposes and desires. All my vain hopes suddenly appeared contemptible to me, and I longed with an incredibly ardent desire for the immortality of wisdom, and began to arise that I might return to Thee. For it was not now to improve my powers of speaking, upon which I, then nineteen years of age, seemed to be spending my mother's gains,—for my father had been dead two years,—not to improve my powers of speaking that I read that book; neither was it the style that convinced me, but the matter.

The book inflamed him with a desire for the love of wisdom, which is in Greek called "philosophy." The study of this book made him more open to the influence of the Bible, and delighted with the exhortation in the eighth and ninth verses of the Epistle to the Colossians, he determined to turn his attention to the Holy Scriptures, that he might see what they

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\* Sallust, De. Bell. Catil., c. 9.

were. His confession that he disliked reading them should be an incentive to perseverance to those who resolve to read them systematically, and at first find it an irksome matter.

And lo, I discovered them to be a thing not to be understood by the proud, nor laid bare to children; but lowly at the entrance, sublime as you advance, and veiled with mysteries; and I was not such a one as could enter into it, or bend my neck to its paths. For not as I now speak did I feel, when I then turned to the Scriptures, but they seemed to me unworthy to be compared with Tully in point of dignity. For my swelling pride disliked the style, and my acuteness of perception could not penetrate their inner meaning.

It perplexed him very much—as it has perplexed many others—why the men in the Old Testament should be accounted righteous, when they had many wives at once and concubines also, when they killed men, and offered animals in sacrifice. He did not see at that time that the law of righteousness, which good and holy men obeyed, did, in a sublime and excellent manner, contain in one principle all that God commanded, and was in itself unchangeable; and yet it was not all at once enjoined, but at various times, according to the requirements and capacities of each succeeding age.

It was at this time that his mother had a dream that he had been converted. Augustine relates how she received an answer to her prayers through a certain Bishop. His mother asked the latter to grant her son an interview, and refute his errors, and unteach him the evil he had learned. The Bishop refused, saying that Augustine was as yet not docile, but puffed up with the novelty of the Manichæan heresy. "Let him alone," he said, "and only pray to the Lord for him; he himself by reading will discover his error and the greatness of his impiety." The Bishop then related how himself, when he was a young boy, had been handed over to the Manichæans by his misguided mother, and had not only read almost all their books, but had also copied them out, and had, without any argument or persuasion from any one, discovered how much that sect ought to be abjured, and had consequently abjured it. When he had said this, and Augustine's mother still would not be satisfied, but besought him with entreaties and floods of tears to see her son and argue with him, the Bishop became a little vexed at her importunity and said, "Go away, farewell; for it cannot be that the son of such tears should perish," which words she received as though they had been spoken from heaven.

In the fourth book Augustine gives expression to his shame at having been a Manichæan from nineteen to eight and twenty, and at having drawn others into the same error. During this period of nine years he sought "the emptiness of popular

praise, even the applause of the theatres, and the prizes for verses, and the struggle for withering garlands, and the follies of shows, and the gratification of ungoverned desires." He taught rhetoric and himself conquered by cupidity, sold to others the art of wordy conquest :

In those years I lived with one with whom I had not been joined in lawful wedlock, but whom my roving and impudent passion had found out ; to that one I remained faithful, and thus, indeed, experienced, in my own case, what a difference there is between the duties of the covenant of marriage, performed for its appointed end, and the contracts of a sensual love, where children are born though undesired, and yet, when born, become perforce objects of affection.

He was much devoted to astrology, and could not be persuaded to give it up, though his friend Nebridius and a very famous physician entreated him to do so. The latter mentioned that he had himself studied the art, and in his early years had intended to make it his profession and thereby gain a livelihood, and that if he could understand Hippocrates, he certainly had ability enough to understand this art ; and yet he had given it up, and taken to medicine, for no other cause but that he found the former had not a grain of truth in it, and that he, a grave man, could not persuade himself to seek a maintenance by deluding people. At this time Augustine received a terrible shock from the death of a very dear friend, with whom he had grown up together and studied together. The shock was the greater as Augustine had turned him aside from the true faith, and had jested with him about religious things. They had "one soul in two bodies," and the half soul\* that remained could find no pleasure in pleasant woods nor in plays and concerts, nor in fragrant bowers, nor in sumptuous feasts, nor in the pleasures of repose and of the couch, nor, in short, in books and poems. All things had a ghastly appearance ; even the very light itself. But time and companionship allayed his, as it allays all other sorrows. Time came and went day by day, lodging in his mind new imaginations and new memories, and patching him up again gradually with his old delights, thus removing his sorrow. He came to see that creatures are perishable, and that the soul cannot find permanent rest in them ; all created things are unstable, God alone abiding. But Augustine by no means condemns love. Beauty must have some grace and fairness, or it would not attract us. He mentions that when he was twenty-seven, he wrote some books "On the Fair and Fit," which he dedicated to Hierius, a renowned orator of the city of Rome, (whose face he had never seen), on account of the fame of his

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\* *Dimidium animæ meæ.* Hor. Carm., lib. i., ode. 3.

learning. But, at the time of writing the Confessions he hardly remembered how many books he had written or what was in them. It was not till his twenty-ninth year that, having discerned the ignorance of one Faustus, a Manichæan, in those things in which they boasted that they possessed divine knowledge, he was led to entertain the idea of going no further in that sect. Augustine had heard of Faustus for many years, and had been looking forward to seeing and conversing with him. He was much struck by his fluency of speech and choice of suitable words; but when he came to discuss matters with him, he found him ignorant of the liberal sciences, except grammar, and of that he did not know much. Therefore, Augustine despaired of getting from him any light upon, and solution of his perplexities. Faustus was aware that he had not the requisite knowledge to answer Augustine's questions, and he was not ashamed to own it. Augustine's attachment to the writings of Manichæus was thus broken. When the teacher, who was so celebrated among them, was unable to satisfy his doubts, he had no hope that their other teachers would be able to do so.

After his separation from the Manichæan sect, Augustine left Carthage for Rome, much against his mother's wish. He tells us that the chief and almost the only reason he had for going there, was that he had heard that young men could study there more quietly, and were kept in check by more regular discipline; so that the scholars of our school could not rush at random and impudently into that of another master, but were only admitted when they had previous permission. At Carthage, on the contrary, we are told that the license which the students took was shameful and unbounded. They rushed in insolently, and with such graces as almost befitted madmen, and upset whatever order anyone might have established for the good of his pupils. They committed injuries with a marvellous insensibility,—injuries which would bring them within the reach of the law, unless their custom had lent a sort of sanction to them. In order to get away from Carthage, Augustine had to deceive his mother, and pretend that he had a friend whom he could not leave, until he was fairly under way:

And difficult enough I had, as she protested she would not return without me, to induce her to stay that night in a place which was very near the ship, which was a Memorial Church of Saint Cyprian. That night I clandestinely departed; but her tears and her prayers followed me. And what, with those tears, was she then seeking from Thee, O Lord, but that Thou wouldst hinder my departure? But Thou, in the depth of Thy wisdom, by then denying her prayer, didst grant that which was at the root of her desire, in order to make me what in every prayer she longed for me to be.

At Rome, Augustine was attacked with a terrible fever, but recovered. He recounts the erroneous opinions he entertained

before he accepted the doctrine of the Gospel. His conversion was due to St. Ambrose. The people of Milan had applied to the Prefect of the city of Rome to provide them with a professor of rhetoric, who was to be sent at the public expense. Augustine asked for and obtained the post. He went to Milan, and was received by Ambrose, the bishop. He tells us that he first listened to the bishop's addresses, not with the right disposition, but as it were, to make trial of his eloquence; and whilst he opened his heart to admit the eloquence of his utterances, there gradually entered, likewise, a conviction of the truth of what he said. Now for the first time the Catholic Faith, on behalf of which he had thought nothing could be said in answer to the attacks of the Manichæans, seemed to him to be capable of being defended by something more than reckless assertion; especially after he had heard several passages in the Old Testament explained, and often in a mystical manner, which passages, when he had understood literally, he had been killed spiritually. Still, even now, he was unable to conceive of a spiritual substance. He determined, therefore, to be a catechumen in the Catholic Church, till something certain should shine upon him to direct him in his course.

After some time his mother Monica followed him to Milan. She was highly respected by Ambrose for her pious life and good works, a feeling which she reciprocated, as she attributed to him the improvement of her son. It had been her custom in Africa to bring pulse-meat, bread, and wine to the Memorial Churches of the Saints; but she readily gave up the practice, when she found that it was "forbidden by that illustrious preacher and pious prelate, even to those who would use it abstemiously, lest it should lead to excess in those who were addicted to drink, and because it resembled very much the festivals which the heathen held in honour of dead ancestors." By talking with and hearing Ambrose, Augustine became more and more convinced that all the knots of sophistical calumnies which deceivers had fastened against the Divine Books, could be undone. Ambrose often preached on the text: "The letter killeth, but the spirit giveth life," and drawing aside the mystic veil, he would spiritually explain those passages in which the literal sense seemed to teach something unsound, treating them in such a way as to give no offence. In this way Augustine began to perceive something of the true doctrine of the Church. Still, his heart would not absolutely assent to anything, fearing a precipice. He wanted to gain the same sort of certainty concerning the things which he saw not, as that which assured him that seven and three were ten. He used to discuss his feelings with Alypius and Nebridius. The former he loved on account of his capacity for moral greatness; and with much difficulty he

reclaimed him from his love of the Circensian games. "*Panem et Circenses*" seems to have been the cry at Carthage no less than at Rome. Augustine bears testimony to the great integrity of this Alypius, and his firmness as an 'assessor to the Court of the Italian Exchequer in Rome. There was one snare, however, in a literary matter, into which he well nigh fell, namely, the temptation to have books copied at Prætorian rates; but, consulting the dictates of justice he came to a better mind, esteeming rather the equity which forbade him to avail himself of this advantage, than the power of having the privilege in question. "This may seem a trifle," remarks Augustine, "but he that is faithful in that which is little, is faithful also in much." The Prætorian rates appear to have been specially favourable Government rates. At Rome books were copied out, and so cheap and plentiful was slave labour, that a copy of Virgil sold in Rome for a few denarii, that is, as cheap as a copy can be had at the present time in London. These three, Augustine, Alypius, and Nebridius, were one in their sighs and one in their perplexities, ardently searching after the true life of happiness, and most acutely examining the most difficult of problems. Alypius, who was in this respect so chaste as to be considered a marvel, hindered Augustine from, marrying, dinning into his ears that if he did so, they could by no possibility have leisure-time to live together in the love of wisdom. Augustine opposed him with examples of those who, after marriage, continued to make wisdom their pursuit, and he dwelt on the pleasures of matrimony to such an extent that Alypius too began to desire the marriage-state, not in the least overcome by any desire for self-indulgence, but from curiosity. For he wanted to know what that could be without which Augustine's life, which to him (Alypius) was such a delight, seemed to Augustine no life, but only pain. The matter of Augustine's marriage was urged forward by his mother, and a maid, two years under the marriageable age, was sued; and, as Augustine liked her, he was willing to wait for her. Girls in Rome, as in India, appear to have actually entered the connubial state immediately they arrived at the age of puberty. It was arranged that about ten friends should live together in common mess—that two of them yearly should as it were hold office, and provide necessaries for the household, the rest having no care. But chummeries of married people were apparently not more successful in Rome than they are now-a-days in India. A certain *nescio quid*—sometimes having its origin in the bazar *hisab*—eventually mars the harmony of such combinations. "But when," naively remarks Augustine, "we began to consider whether our wives would like the arrangement—for we, some of us, were married, and others hoped to be—the whole plan, which we

were so well forming, fell to pieces in our hands, and was dashed to the ground and given up."

In the meanwhile my sins were being multiplied, and the one with whom I had been in the habit of living was torn from my side as an obstacle to my marriage, and my heart, which clung to her, by that wrench was wounded and bleeding. And she returned to Africa, vowing that she would never live with another, leaving with me a natural son by her. . . . Nor was that wound of mine healed, which had been made by the cutting off of the earlier love, but after inflammation and most acute pain, it mortified, and the pain became benumbed, and therefore the more desperate.

Augustine did not, however, wait for his marriage, but lived with another. That the Saint Augustine was so irregular in his amours even as late as his thirtieth year, should be a solace to those who are of opinion that reformation becomes more and more difficult with each succeeding year of life. Augustine frankly tells us that the loose lives (according to Western ideas) of the patriarchs and holy men in the Old Testament, and their unrestrained indulgence of passion, constituted a great stumbling-block, aye more, exercised a pernicious effect on him and many others. This effect may be said to have lasted to the present day. He tells us that nothing could have recalled him from the deep abyss of carnal pleasures, except the fear of death and of future judgment, which through all the changes of his opinions never departed from his breast. Some of his friends became Epicureans, and the teaching of Epicurus would have commended itself to Augustine, had he not believed that the soul existed after death, and received its deserts, which Epicurus would not believe. Epicurus held the soul to be material, and at death to be resolved into its original atoms, and thus to cease to exist. "All good," said he, "and evil consist in feeling, and what is death but the privation of feeling?"

In the seventh book Augustine relates how he was still unable to accept the doctrines of the Church in its entirety. Though convinced of the errors of astrologers, he was yet miserably perplexed about the origin of evil; he derived much profit from the books of the Platonists, which, however, were insufficient to give him true notions about the Incarnation of Christ; but in the end, by means of an unremitting study of the Holy Scriptures, and especially of St. Paul, his doubts were put to an end. It seems to have been owing to his constant and determined study of the Scriptures that Divine things became gradually clearer and clearer to Augustine.

In the eighth book we come to the most memorable part of Augustine's life, namely, his thirty-second year, in which he was entirely changed and turned towards God. He went to consult one Simplicianus, who related to him the conversion of Victorinus. Victorinus was a very learned old man, highly skilled in

all the liberal sciences. In consideration of his excellent discharge of his office, he had even obtained a statue in the Roman forum. Even to an advanced age he continued a worshipper of idols, and a partaker in sacrilegious rites, to which nearly the whole Roman nobility were proudly devoted. All this he had for many years defended with vociferous eloquence ; and yet he became a Christian. Augustine was much struck by this conversion, an incident of which is worth extracting :—

Victorinus said secretly to Simplicianus, and in strict confidence : “ Know that I am already a Christian.” And he answered : “ I will not believe it, neither will I reckon you amongst Christians, unless I see you in the Church of Christ.” But he laughingly replied : “ Do walls then make Christians ?” And this he often repeated that he was already a Christian ; and Simplicianus always made the same reply, and he as often renewed the jest about the “ walls.” For he feared to offend his friends, the proud demon-worshippers, from the top of whose Babylonian dignity, as from the “ Cedars of Libanus,” which the Lord had not yet “ broken,” he thought the whole weight of their enmity would rush down upon him. But after that, by reading and attention, he had derived firmness, and feared to be “ denied by Christ before the holy angels, if he feared to confess Him before men,” and appeared to himself to be guilty of a great offence in being ashamed of the Sacraments of the humility of Thy word, and not being ashamed of the sacrilegious rites of proud demons in which he had partaken, and whose pride he had imitated, he became shameless towards vanity, and shamefaced toward the truth, and suddenly and unexpectedly said to Simplicianus (as he himself told me) : “ Let us go to the Church ; I wish to be made a Christian.” . . . Finally, when the time arrived for making a profession of his faith (which at Rome, they who are about to approach Thy Grace are accustomed to deliver from an elevated place in the sight of the faithful people, in a set form of words which had been committed to memory), he said, that the priests offered Victorinus to make his confession more privately, as the custom was with some who through bashfulness dreaded it ; but he preferred to make confession unto salvation in the presence of the holy multitude.

Augustine wonders what it is which makes man rejoice more at the salvation of a soul despaired of and rescued from greater peril, than if there had always been hope for him, or the peril had been less. Everywhere the greater the joy, the greater the trouble which preceded it. When the dear one, who has been ill, regains his strength, there is such joy as there was not when he walked sound and strong. The very pleasures also of human life are gained by appointed and pleasurable toil. It is appointed that the betrothed bride should not immediately be given up, lest the husband should value her less, because he had not longed for her for a while first.

Augustine gives some instances of sudden conversion from reading a particular book. Pontitianus relates how it happened



that one afternoon at Triers, when the Emperor was being entertained with seeing the games of the circus, he and three other companions went for a walk in the gardens which were adjacent to the walls, and as they walked in pairs, one went away with him, and the other two strolled by themselves ; and these in their wanderings made their way into a certain cottage, in which some poor monks dwelt, where they found a book which contained the life of Antony, and began to read it. They became so absorbed in it that, reading on, they there and then resolved to abandon worldly things and lead a monastic life. This St. Antony was an Egyptian monk, who was born in A. D. 251. On hearing Matt. xix. 21, and vi. 37 read, he parted with all his possessions, which were considerable, and gave them to the poor and to his neighbours. He retired into the desert, and is said to have wrought great miracles. Augustine was now in his thirty-third year, and he gives us a graphic account of the struggle that took place in him between the flesh and the spirit. He points out how the mind commands the body, and it instantly obeys ; the mind commands the mind, and is resisted. Whence this monstrous conduct ? It is because the mind does not will with the whole will that what is commanded is not carried out. For the strength of the command is equal to the strength of willing, and the lack of execution to the lack of will. For the will commands that there be a will ; not another, but itself. Therefore, because it does not fully command, that which is commanded is not fully carried out. For, if there were a full will, it would not command it to be, because it would already be. The weakness of Augustine's will was strengthened, and he became entirely converted by an occurrence which he interpreted as a Divine admonition. He was in deep despair one day, and being with his friend Alypius, he stole away so that he might be quite alone, and flung himself down under a fig-tree in a flood of tears and prayer. He was weeping in the bitterest sorrow of his heart, when he heard a voice as of a boy or girl from a neighbouring house, chanting and frequently repeating, " Take, read ; take, read " He interpreted this to be nothing less than a Divine admonition, that he should open the book and read the first chapter he should find. Thus stirred, he returned to where Alypius was sitting ; for there he had laid down the volume of the Apostle when he rose up. He seized it, opened it, and read in silence the passage on which his eyes first fell : " Not in rioting and drunkenness, not in chambering and wantonness, not in strife and enjoying ; but put ye on the Lord Jesus Christ, and make not provision for the flesh in its lusts." He would read no further, nor was there any need for him to do so ; for instantly, when he had finished

the sentence, by a serene light as it were infused into his heart, all the clouds of doubt were dispersed. Soon after this, with Alypius and his natural son Adeodatus, he was baptized. His mother Monica, having witnessed his baptism, died in her fifty-sixth year, Augustine then being thirty-three. His laudatory description of his mother's sweet and holy character is worth perusal.

Mention is made in the seventh chapter of the ninth book of the origin of singing in churches.

Certainly it was a year, or not much more, since Justina, the mother of the Emperor Valentinian, a boy, persecuted Thy servant Ambrose, on account of her heiresy into which she had been seduced by the Arians. The pious people kept watch in the church, ready to die with their bishop, Thy servant. We, cold as yet, through lacking the heat of Thy Spirit, were still stirred by the alarm and commotion of the city. At that time it was instituted that, after the custom of Eastern parts, hymns and psalms should be sung, lest the people should languish with the very weariness of grief; and from that day to this, the custom has been retained, and is followed by many, indeed by almost all Thy congregations throughout the world.

Having in former books described what he was before he had received the grace of baptism, Augustine examines what he then was at the time he wrote. He points out how the will can be gradually trained, and that we are not able to accomplish certain ends and aims, simply because we do not will enough to make ourselves able. He shows that the only happy life consists in joy in the Truth. The temptations even to the thoroughly converted man are dwelt upon, as gluttony, the charms of perfumes, the pleasures of the ear, the allurements of the eyes, curiosity, pride, vain-glory, self-love, and desire for human praise. The snare of concupiscence lies in wait in the passage from the pain of emptiness to the contentment of fulness:—

What is enough for health is too little for delight. And often it is difficult to determine, whether it be the necessary care of the body which seeks a further supply, or whether the deceptive craving for enjoyment is offering its services. In this uncertainty, the unhappy soul becomes merry, and therein prepares to shelter itself under an excuse, glad that what is sufficient for the moderation of health is not quite evident, so that under the cloak of health it may hide the working of pleasure.

As to the pleasures of the ear, Augustine mentions singing and music in church. He acknowledges the great utility of the practice, though there is a danger of gratifying oneself rather with the singing than with the words sung. Though not pronouncing a decided opinion, he approves rather of the custom of singing in the church, that so, by the delights of the ear, the weaker soul may rise to the affection of devotion.

He finally puts to himself the question, whether it is any good that men should hear his confessions, and answers it in the affirmative :—

For the confessions of my past evils, which “Thou hast forgiven” and “hast covered”—when read and heard, stir up the heart, that it sleep not in despair and say, “I cannot,” but awake to a sweet sense of Thy mercy and of Thy grace, whereby the weak, whoever he be, becomes strong, who by it is made conscious to himself of his own weakness. And it delights the good to hear of the past evils of those who are now freed from them ; not, indeed, that they delight in the evils themselves, but because they have ceased to exist.

The above bare outline is sufficient to indicate that there is much to interest and rivet one’s attention in the writings of the old Divines. “When one is contented,” says Cervantes, “there is no more to be desired ; and when there is no more to be desired, there is an end of it.” How to attain to this desirable state of contentment is the problem to be solved by many an Anglo-Indian ; and the study of suitable books, such as the Confessions of St. Augustine, is no small factor in the solution of the problem. *Nobilitas sola est atque unica virtus* ; and it is impossible to attain to the nobility of goodness without striving to approach, though it be *longo intervallo*, that ideal exemplar, the first true gentleman that ever breathed. This seems to be the only royal road to peace and contentment for the official or non-official exile caged in Mofussil prisons. ‘Tis not in mortals to command success ; but it is at least a solace and a comfort to feel that one has put forth one’s best efforts in the struggle to attain it. After all, the greatest and noblest success is the possession of an innocent and quiet mind, and only they who have acquired this priceless treasure can realize the truth of the lines of Richard Lovelace :—

Stone walls do not a prison make,  
Nor iron bars a cage ;  
Minds innocent and quiet take  
That for an hermitage.

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## . ART. VIII.—THE TYRANNY OF LAW IN BENGAL.

**M**R. PHILLIPS has lately shewn in the columns of this Review, that the cause of sanitation suffers much from exaggeration of, and over-tenderness for private rights; and he urges that much could be done by Magistrates if they only worked the provisions of the law. He complains of the inaction of Magistrates, and condemns those who are not ready to concentrate their energies in suppressing nuisances, opening obstructed drainage-channels, and generally improving sanitation. In conclusion, he says that everything is in the hands of District Officers. Now, as the writer of this article has been a District Officer for many years, and though having the cause of sanitation much at heart, has not seen his way to work any sanitary reform through the law, he would like to explain why this so. We would venture to suggest that Mr. Phillips has looked at matters too much from a lawyer's point of view, and that District Officers abstain from interfering with conservancy, water-supply, drainage-channels, and such matters for very good reasons. One is, that they are not certain in any given case, whether their action would be beneficial or the reverse. Take for instance the obstruction and pollution of rivers by the erection of various kinds of fishing apparatus. The matter is often brought to the Magistrate's notice for malicious reasons, and on enquiry it is found that a valuable property will be interfered with, and the amount of public benefit to be gained may be very small. Again, a *khal* is closed for fishing or irrigation purposes. By this means an immense area of country is kept artificially under water, and in a damp and generally water-logged country, presumably harm is done to the public health. But should a Magistrate, with his present undefined knowledge of cause and effect in affairs of drainage, absolutely forbid such storage of water? Failing certainty, or at least the ruling of an authority competent to judge, Magistrates, in our opinion, prudently observe, a masterly inactivity. The High Court, too, as the chief guardian of property, would restrain them. When professional research has determined how *beels* and the beds of old rivers should be dealt with consistently with the interests of both agriculture and the public health, the Magistrate will then step in and enforce the dicta of science. But it would be intolerable, if every Magistrate with executive powers could interfere with valuable property to carry out his ideas of sanitation.

But though we absolve our magisterial authorities from all blame, we hold that Government is not free from the charge of neglect in the past, and we can only hope that the Sanitary Board which the Government of India has promised us, will introduce a new department of activity into our administration. The country wants an authority which shall combine law, agriculture, and sanitation. At present the law—through no fault of its own, for law is necessarily conservative—too readily protects the destroyer of the public health, and represses him who would improve it." So also individual rights stand in the way of the application of capital to land. It is in the highest degree probable, that a scientific control of the flood-water of a deltaic country, would immensely increase the agricultural wealth, and that in a way compatible with sanitary conditions. We will grant that the Native system of agriculture is very possibly the best under the *present circumstances*; but the mistake hitherto has been, that attempts have been made only to change the system. What we would advocate is that the *circumstances* should be changed. To live under purely natural conditions is barbarism; to alter and control those conditions, so as to serve the interests of man, is civilisation; and in doing so, not only are man's energies developed and strengthened; but he is inevitably started on the road of progress. At present too much administrative energy is expended on manipulating the existing conditions, and too little from a sanitary-agricultural view on improving and altering them. Let then some of the expensive European agency be withdrawn from the judicial and revenue departments, and be directed to discovering means of improving the physical condition of the people. The educated Native shows little proclivity in this direction; and besides, the circumstances of the country give him little opening. The endless litigation over rights and wrongs neither enriches the people, nor elevates their characters. It rather tends to develop all the evil, to foster the bitter hatred and the petty vanities that flourish so rankly in the East. In fact, litigation is veritably eating out the vitals of the people.

Some time ago an amusing set of letters appeared in the *Englishman* suggesting the establishment of an invention department. The officers were to be paid at most generous rates, and to have the lightest possible work, in order that the edge of their inventive genius should not be blunted. We do not go so far as to endorse this proposition; but we should like to see some of the resources of the country spent on supporting a department whose duties would be *to harmonise law, sanitation, and agricultural progress*. At present they are not in harmony. Law (not justice, remember) overrides everything. Private

property is certainly indispensable to liberty and progress; but it is only so, because man's energies and virtues will not otherwise be called forth. But when the rights of property condemn a people, as a whole, to perpetual poverty, and ever-recurring calamity, they should be so modified as to justify their existence. At present, here in Bengal, the whole energies of the people, and their best intellect are spent in defending and pressing claims of property. Zemindars, whose existence except as paid revenue-collectors is only justified by their serving social and economical purposes, live only to consume the fruits of the earth and to sustain a large body of lawyers by their litigation. Their tenure of property is such, that none can say that a bit of land is his own; he has only an abstract share in it. The ryot, it is true, has in some measure that complete possession and control, which so stir a man's energies; but improvement of property, especially in India, must come from those of large and extended interests, and of educated and enlightened minds. Or if, owing to inherent obstacles this is impossible, the State should step in and resume, where necessary, the rights of property. An enlightened proprietor will sacrifice minor rights in order to improve his property; but the divided and litigious landowners of Bengal will never do so. It might happen, for instance, that the drainage of an immense basin would yield half as much again grain as at present; but if there are complicated rights of fishing involved, worth perhaps something infinitesimal, over which claimants will spend all their substance, the improvement cannot be undertaken. Stagnation of all enterprise and energy except in litigation is the consequence. The Native system of joint property is, of course, a kind of communism; and our socialist friends in Europe and America would do well to study the result of communism here, before striving to introduce it in their own countries. If they could eliminate the evil from man's nature, they would succeed. But these enthusiasts believe in the perfectibility of human nature, when individual rights, and with them individuality itself, have been suppressed. Well, the upper classes here are more or less communistic; but with the loss of their individuality, they certainly have not managed to rid themselves of the worst vices of man. On the contrary, while their energies and self-reliance have withered, hatred and malice (even amongst those who are nearest and should be dearest) flourish in full force. Brother fights with brother, and father with son. Jointly they may own many broad acres; but the separate ownership of a doorway, a waterspout, or a back-entrance will furnish a "*causa tetrerrima belli*" sufficient to ruin all parties.

But we have somewhat digressed. To return to our argument:

Whether for good or bad, the ownership of property is most complicated, and every owner is hedged about with the rights of his co-sharers. To maintain his interest at all is often most difficult, and for him to spend money on improvement would either be to give his substance to others, or to court ruin by litigation. Men's natures soon become subdued to their environment, and so it has been in Bengal. A dire necessity condemns every man to accept his surrounding physical circumstances. The young ward of Government, educated with English ideas, enters upon his property with every desire to act up to the principles he has been taught. But he is practically bound hand and foot. If he attempts anything, he is soon struggling helpless in the meshes of the law. He has the whole intellect of the country, and, I am afraid, its sympathy too, arrayed against him. It may be therefore said that here essentially the people exist for the law, and not the law for the people. Private rights have indeed become public wrongs. The common weal is unknown; and instead of everyone being for it, everyone's hand is against it. But it may be urged that District Boards and Municipalities represent the common weal: and so they do; but, owing to the want of organisation and knowledge, their powers for good are most limited, and in the meantime the law is made an engine of oppression on behalf of private rights. The Boards and Municipalities want to be strengthened and advised by trained administrators. Moreover the State requires to be represented as the Lord Paramount, interested in the agricultural and sanitary condition of the country. Such, we understand, it will be by the new Central Board as regards sanitation. But why should not the development of the agricultural resources of the country be also committed to the latter's charge? At present, if a particular area urgently requires irrigation, drainage, an embankment, the storage of rainfall, or a supply of drinking water, whose business is it to enquire and consider? The ordinary officers of the Public Works Department are the only agency available. They have every conceivable kind of engineering duty, and it is no imputation on them to say that they have given very little study to engineering matters affecting agriculture and sanitation. True there is a law providing for such agricultural improvements as we contemplate; but where is the agency to work it, and how can a body of proprietors, each of whom is jealous of the others, put forth any effort to carry forward an undertaking of the kind? As we have said, each must be constantly on the watch against the other. To those who know Native society the absurdity of expecting combination for any works of improvement is readily apparent. The development of the resources of the country, therefore, like the improvement of sanitation, must

be a public and not a private concern. In America and some European countries it may be left to private\* enterprise; but here, chiefly owing to the oppressive working of the law, no private person can enter on any course which runs counter to the conservative instincts of Native society. The State consequently must actively interfere. In sanitary matters the public should be professionally represented in each district, and the same agency could be utilised in agricultural improvements. Where it is found that private rights completely bar the way, the legislature should be invoked. But generally the law is good, and the various Boards and Municipalities could with proper advice and control achieve much. Is it unreasonable to suppose, first, that professional men could in each district discover means to improve sanitation and benefit agriculture; next, that capital could, by the State at least, be profitably invested? Would it not be worthwhile for some experiments to be made in draining *beels*, and storing up water-supply? When experience had been gained, the rights of numerous shareholders might be bought up, and improvements carried out by the State, the District Board, a Company, or other means, and the property then re-conveyed to private owners. To give an instance of the direction in which the new department might work: ryots often complain that a zemindar or planter is closing a *khal*, and so preventing the silt-laden flood-water coming to their fields. At present the Magistrate can do nothing.† It is a matter for the Civil Court to decide; and there the decision will turn, not on the question whether a vast plain of many square miles will be benefited, but with whom lies the control of the *khal*. Surely it would be well to have a competent authority to determine questions of such vital importance to the public. It would be possible rapidly to fill up many of these *beels* or morasses if scientific knowledge were directed to the subject; whereas now, some selfish motive of an individual,—the object perhaps, being to retain a fishery worth a few rupees a year or benefit a particular crop—may retard the improvement of a vast tract of country for centuries. We may mention that disputes and claims of the kind referred to have often been brought to our knowledge.

\* [Witness the successful opposition to the enclosure of commons in England, and that although the Common Law (first limited by the *Charta de Foresta*, 9, Hen. III) was originally against the villagers. In India the Common Law is all in favour of the rights of the villagers.—ED.]

† [We submit that he can do much,—ss. 268, 283, 425, 430, 432, &c., P. C., and s. 143, C. P. C. It is for the Magistrate to decide if an act falls under s. 268 or s. 425. Every case of mischief involves a decision as to whether there has been 'wrongful loss,' *i. e.*, "loss by unlawful means of property to which the person losing it is legally entitled." We do not say that in some cases a person might not subsequently go to the Civil Court. But the issues in the Criminal and Civil Courts would be the same.—ED.]



It is to be remembered that the present state of obstruction of the public good by private rights is a result of the settled order we have introduced. Before our time the agricultural economy was controlled by men of great power and influence, whose interest it was, as it is now only that of the State, that the ryots should thrive and that their lands should be enriched in all possible ways. All over Bengal there are proofs in huge *bunds* and great water-reservoirs, that these feudal barons did, at times, undertake works to increase the yield of agriculture. Of course our own government, with its strong organisation and greater command of science, has carried out public works which utterly dwarf all those of former times. But while the State's beneficence has increased, that of landholders has sadly diminished; the causes are those we have referred to. The landholding class have in consequence been forced into inactivity, the law having paralysed them. Politically this is a misfortune, as when the richest and most powerful part of a nation is condemned to idleness, the people have no leaders. The landlords have been supplanted by the lawyers, who, being naturally the "outs," are intensely radical. The landlords are their prey; and the net result of the intense intellectual study of the colleges and the strife of the law courts, is little more than a steady transfer of property from the old zemindars to successful lawyers. But the educated intellect in no way works to increase the riches of the country. Should the State, through a department, stand forth to defend the public collectively from the selfish instincts of its members individually, and itself start agricultural and sanitary improvements, openings for the exercise of their talents in a productive manner will present themselves to the educated class. The owners of property will also be interested, and can expect the aid of trained administrators in their enterprises. The great want of India is capital, and if a department, by protecting and encouraging enterprises dealing with land, could attract capital, India would advance quicker on the road of civilisation than she is doing now.

A department such as we advocate would require a number of administrators conversant with the law of the country, and a body of engineers, whose first work would be to survey the country from a sanitary and agricultural point of view. As far as we are aware, the levels and the drainage areas of different districts are not on record, nor has there ever been any serious consideration of the supply of drinking-water. There are large tracts submerged in the rains, where the population almost die for want of drinking-water in the hot season. Numerous lakes and river-beds would, in other parts, give first-class water, but they are polluted in various ways. Many villages have numerous

tanks, but they have gradually deteriorated from the carelessness and the ignorance of the villagers. The sanitary engineer would here step in and see that these tanks were properly kept. If necessary, the law regarding private tanks used by the public for drinking purposes, might have to be altered. At present, no one but the owner could prevent its pollution.\* But *salus populi suprema lex* is a principle that should be applied to override private rights, when the public health is involved. There would, we are sure, be no difficulty in enlisting Native public opinion in introducing such reforms. The wish to be reformed sanitarily is present, more or less in Native society; and the various Boards would be easily brought to work with the Department.

At the same time, we would not be understood to advocate a further development of the agricultural department as now constituted. The object of that is to collect agricultural statistics, to advise Government with regard to vexed revenue questions, to ameliorate, if possible, the condition of the cultivators by seeing that their legal rights are not infringed, and to introduce any improved methods of cultivation. But it is not within its province, as now defined, to discuss any projects of structural improvement, much less to inaugurate and undertake them, nor has it any staff to do so. The department is not intended to supplement the want of energy, enterprise, and capital, in the Native agricultural world; but its duties are almost limited to dealing with the relations of the cultivator and the rent-receiver. We would have the new department undertake, as far as possible, every duty of a good landlord, *except* the collection of rent. The zemindars or landlords created under the Permanent Settlement, though designed by Lord Cornwallis to be English landlords of the old type, have ended in being little more than oriental tax-gatherers. The authors of the Settlement believed, that, having a permanent interest in the land, the proprietors would proceed to improve their estates in every possible manner by the application of capital and intelligence;—that they would do this, not out of philanthropy, but prompted by enlightened self-interest. The large zemindars, under the old system, were seen to be men of energy and ability, and it was naturally concluded, that their successors under the English Government would be the same. If, as it was naturally assumed, zemindars did so much under a despotic rule and with no security for the enjoyment of the fruits of their labour, what might

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\* [That clearly depends on whether the public have a right to take drinking water from the tank. If there can be an easement to irrigate from a tank, *à fortiori* there can be an easement to take water from it for domestic purposes.—ED.]

not be expected from them under a firm and just rule, where every right would be respected? But the effects of the joint family system of the Hindus, in suppressing all individual effort, and in obstructing all improvement, had not been calculated on; nor had their litigiousness and want of moderation. Consequently, the only energy generated has been one of litigation, and the improvements contemplated have not been made; and the country remains in its old state of backwardness. No one, we believe, will dispute any one of the following propositions: first, that all over Bengal as, of course, in all countries, capital and intelligence combined can indefinitely advance the condition of agriculture; secondly, that it was intended by the grant of the Permanent Settlement that the zemindars should be induced to enter upon the path of such improvements; and thirdly, that for various reasons they have not done so. We arrive therefore at the conclusion, that there is work to be done by which the country can be enriched, and the people's lot improved, and that the agency designed to effect this improvement has utterly failed. The question then remains, whether the State is justified in looking complacently on at this failure; or whether another agency should not be substituted. We insist that for causes we have referred to, no good in this direction can be expected from the private owners of land. They are weak and distracted, owing to their social and family systems; and the whole educational force of the country is bent on keeping them so. Moreover, the study and pursuit of the physical sciences, by which alone the intellect can be led to take an interest in material improvement, are foreign to the oriental genius, and especially to the Hindu. This is very noticeable in all the political discussions, which the educated classes are now indulging in. They are talking over the heads of the people. The latter are crying for bread, and they would give them a stone. When those who own the land, and the wealth (such as it is) of the country are unable, from want of energy, enterprise, and power of combination to develop its resources, the hungry, the *non possidentes*, are gravely asserting that they can direct State policy. In our opinion, much of this political agitation is owing to the stagnation of the country in its agricultural affairs. If it could be once started in the path of improvement and the sympathies of the landlords could once be aroused, we should not hear so much of the landless agitators. As it is, the gentlemen of the long robe have immersed all the owners of land in a sea of litigation, where the lawyers are the only pilots, and where they often but play the part of pirates. Litigation is the only engrossing topic of the countryside; and while the wealthy zemindar indulges heavily in it, the poorer ones cannot resist

the temptation of some such excitement. Spirit of moderation and compromise there is none ; and under the influence of the lawyers every quarrel is fomented and every bad passion is stimulated. To them, of course, the utmost assertion of every right, and the resentment of every injury bring power and influence ; but to the country, generally, it means distraction and poverty. Evil can only be cast out by good ; and till the energies and intellectual forces of the country are directed to some more profitable channels, the land-owners will continue to waste their substance in useless quarrels, and the lawyers will aid and abet them. The latter, too, will continue to be political agitators, preaching the highest principles of public morality, but being, at the same time, the greatest curse to their country. Hence, we ask that the State should appoint public officers to study the agricultural and sanitary economy of these vast and rich plains, and should, wherever possible, start works of improvement. To such matters should be attracted some portion of the talent of the educated classes, and every encouragement, help, and protection should be extended to the owners of property, who may be ready to undertake any work of improvement. The litigiousness of co-sharers and neighbours should be openly discouraged ; and the State, in its executive capacity, should stand forth as the protector of individual enterprise, which is now crushed by the tyranny of the law as worked by perverted intellect. As we write this, a Local Board has addressed a letter to the District Board of Jessore, saying that it "has received several applications for cutting kháls in order to preserve the crops of several villages"; and that if it is allowed to take up the work, much good might be done for the welfare of the people at a cost of Rs. 1,000. But it will be our stern duty to point out that the Law does not authorise expenditure for productive works from the District Fund. They can only be undertaken by private parties, who, as we have shown, are paralysed by the litigious spirit of the country. Here would be work for our department, and a means of interesting the educated classes in agricultural improvement ; but under the present régime the State cannot regard such affairs.

We have thus proposed that the new sanitary department should occupy a large sphere of labour, and for it to do so, it would have to be very efficiently manned, and that means the expenditure of money. We therefore feel called upon to propose reductions in other directions, or, in other words, the transfer of energy from where it is superfluous to where it is wanted. Law and order are fully established, and where Native agency can maintain them, it is incumbent on us to substitute that for the more expensive English

one. On the other hand, as we have tried to shadow forth, the English genius is now required to organise the Native mind, so that it may subdue Nature; to give Natives a lead, not only in constructing vast works of engineering, but in discovering how agriculture can be improved by utilising the flood and the rain water; how fever, ague cholera, and other desolating diseases can be combated, in so far as they are due to bad drainage and bad water-supply; and generally to encourage them in studying cause and effect in the physical world. In our opinion there might with advantage be fewer District Officers and fewer District Superintendents of Police. Not only would their reduction produce a saving in expense, but even greater efficiency might be gained. Much of the work now done by the above officers, especially in the smaller districts, could be done equally well by Natives under European supervision. What is the necessity for keeping European officers,—the Magistrate-Collector sometimes drawing over Rs. 2,000 a month—at such places as Bogra, Maldah, or Khulna. If one Sessions Judge suffices often for two districts, why not one Magistrate, and one Superintendent of Police? There are, we would venture to say, some seven or eight districts where separate district officers could be dispensed with. Such districts could be attached to a neighbouring one, and one good staff could be kept for both. The present arrangement of having a number of small districts, makes no allowance for the great improvements in communication that the last twenty years have seen. The telegraph, the railway, steam-launches, and an accelerated post enable an executive officer to control a much larger area than formerly. At present owing to the skeleton staff in each district, the relief of officers for furlough, leave, or sickness, is very difficult. Moreover, often very junior officers have to be placed in posts of responsibility, where age and experience are absolutely necessary. For instance, very young men are at times placed at the head of the whole police force of a district, and they, too, are brought in from the outside. Now, were the smaller districts abolished as executive charges, and nearly all District Magistrates and District Superintendents furnished with senior assistants, there would be fewer postings of officers, and much more continuity of district management. In some of the unpopular districts at present, the average duration of a Magistrate's or Superintendent's stay is about a year. How is it possible, under these circumstances, for officers to have that knowledge of their subordinates which is so necessary to efficiency? Consequently, promotion among the Native staff is left much to intrigue, chance, and irresponsible upper subordinates. Again, small districts are bad as training-grounds for officers, and abuses easily creep in. It was all very well in

the early days of administration to leave inexperienced officers to themselves. There was then room for display of energy and individuality, times were exciting, and men were allowed to act freely on their own judgment. No distinct lines of policy had been laid down in all the various departments; but now everything is most minutely defined, and the Calcutta head offices are daily assuming more control. It may also be accepted as an axiom, that head offices will grasp more power as the local officers shew less capacity. The frequent changes, and the frequent inexperience of the district and police officers have certainly deprived the local officers of some of their power. This may be especially seen in the Police Department. The evils of centralisation can only be avoided by having strong local officers; and they can only be strong, when they have charges large enough to furnish them with valuable experience, and when they are allowed to remain long enough to acquire knowledge and influence. These conditions are not now present, except in a few favoured districts.

Against the proposed absorption, for executive purposes, of most of the small districts, it may be urged that it would give the District Magistrate and the District Superintendent too much to do. It will, of course, be readily allowed that the smaller districts do not supply sufficient high-class work for these officers, and that, in consequence, senior civilians often have to employ themselves in trying criminal cases, that a Native Deputy Magistrate could probably try as well. This, of course, is the proverbial using a razor to cut a stone. But it will be urged, how about the big districts? It is our experience, gained in several first-class districts, that except where there is a large Court of Wards' estate, the real work of supervision and control is generally light; and it is a great deal the mint, anise, and cummin that consume so much time. It must be remembered that the important departments of excise and income-tax are now very much taken out of the hands of the District Officers. Moreover, crimes of turbulence have much decreased; and in land disputes the Civil, rather than the Criminal Court is the chosen arena of conflict. At the same time the subordinate Magistracy has much improved, and is, moreover, somewhat controlled by growing public opinion. A District Magistrate's chief work now is the control of the police, and with the Native Press lending itself often to unscrupulous attacks on them, he has to be at times their defender as well as their controller. On the whole, the effect of the Native Press on the administration is good. But while its existence, especially in central and Eastern Bengal, renders less necessary the presence of European officers in out-of-the-way places, both

its severe criticism, and its unscrupulous attacks on public officers, require that the English supervising agency, the *corps d'élite* of the service, should work under the most favourable conditions as to efficiency, and that single officers should, not as now, be left to vegetate and deteriorate in small stations. At some of these the highly educated and costly civilian has to live may be for years, with possibly the society of one other fellow-countryman. If he is fortunate, there may be a third. At such places now the English doctor and engineer are being supplanted by Natives. The Englishman's happy genius for forming clubs, and combining for the supply of meat, ice, and other necessities can, of course, avail him nothing. He is now not only a poorer man than he was, on account of the depreciation of the rupee, but when so placed, has no means of recreation, no society, and cannot get wholesome food. The official at these solitary stations fares much worse than the planter, for the latter can make himself at home, and an Englishman's energy and resources enable him often to do wonders. But the official with no local interests, not knowing whether he will remain a month, a year, or five years, forbidden, of course, to own land, and practically prevented by his duties, from being intimate with any of the non-officials, has a very hard time of it. Is it wonderful if his energies flag, and his moral fibres loosen? No race but the English could stand such a life at all! A man of almost any other race would solve the difficulty by throwing in his lot with the people of the land, and would thereby cease to be one of the civilising race. But though the solitary Englishman seldom does this, he must suffer some deterioration, and the State is so far a loser. Life is thus being made most unnecessarily disagreeable to many English officials, and the service consequently becomes unpopular. We feel sure that Government must soon deal with these difficulties, as the extended employment of Natives is daily rendering them more acute.

In these few pages it has been our endeavour to point out first, that, owing to the reign, or rather tyranny of law, the public good, as represented by sanitation and agricultural progress, is greatly injured; secondly that, under existing circumstances, little improvement can be hoped for, till the public is represented by an authority which can unite law and science, and with them defend public rights against the encroachments of private ones. At present nearly all official energy is directed to protect private rights, which we hold are over-protected.

Finally we would have law and order maintained, and revenue collected by a more modern district organisation,

requiring fewer European officers than the present one; and the organising energy thus set free, we would utilise in protecting and improving sanitation and agriculture. Our suggestions, we admit, are rather radical; but there are many signs, that a new departure in administration must soon be taken. Our present administrative dress is not fitting well;—too close in some places, and too loose in others. Changes must consequently come; and we have only tried to draw attention to the direction they must take, to meet some of the most pressing wants of the country.

F. H. BARROW, C. S.

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## ART. IX.—ROADS IN BENGAL.

**A**N eminent statesman recently said that cheap transport is now a commodity with a market-value. I propose to consider this commodity; what is its importance; to whom it is useful; and how and by whom it can best be supplied. I shall leave on one side questions of railways, canals, steamers, and all other means of transport except ordinary roads. My objects in writing the following few remarks are two: the first to press on readers the importance of the problem; the second to suggest a means of solving it. "The former is the chief object. As for the latter, even if I am wrong, it matters little so long as close attention is directed to the subject.

Transport is the carrying of men or goods from one place to another. When Mr. Gladstone spoke of cheap transport as a commodity, he meant labour-saving devices, whereby a smaller amount of labour would be enough to transport the same load between the same points. For cheap transport men are willing to pay, as the old saw has it:

"Good husbandry payeth,  
"The cheaper to buy."

There are two chief ways of cheapening transport, *viz.*, by improving vehicles, and by improving the roads they pass over.

The vehicle and the road depend on one another. Every improvement in the road leads to improvements in vehicles; and, on the other hand, if the road is not improved, neither can the vehicle be. It is improvements in roads and vehicles that cheapen transport.

Cheap transport is a blessing to all. It is useful to traders, who live by moving goods from one place to another; to the people, who themselves like to move about; and to the State, some of whose works, such as famine relief, involve the movement of goods, and some, such as police and justice, involve the movement of persons. We must remember also that not merely for going long distances is cheap transport wanted, but for going short distances also. The only roads which the State has in this country insisted on having kept in proper order are the public roads in municipalities—the roads round the doors of the citizens. Owing to the ways of living in Bengal, public management of local roads is more necessary here than it is in England. While in England there are large domains and farms in the occupation of single persons who can provide for them-

selves such roads as they need, in Bengal multitudes of interests are so mixed up, that the road must pass from holding to holding. Conflicting claims and jealousies spring up; public rights are destroyed by private greed, and so far from improvements being possible, even the small conveniences that exist very often disappear. Again and again in the course of my official experience, I have found the whole community of a neighbourhood ready and willing to subscribe money and give up land for making their roads, but mutual jealousies prevented any one from acting without official help. For want of facilities for moving about, men have difficulty in taking goods to market or bringing them home, taking their cattle to the fields, sending children to school, taking their women to see their friends, bringing in medical aid in time of sickness;—in a word they have not the enjoyment of those conveniences, which townspeople have come to look upon as part of their ordinary life. This deserves to be noted, since most of those whose voices are heard in Bengal live in towns, and probably fail to realise the troubles of their brethren in villages. Between the wants there is no wide distinction; but between the ways in which these wants are supplied, there is a very wide distinction. A man must have a house, and a place to work at, before he travels abroad, and consequently nothing can make up to him for neglected roads around his house. People in Burdwan are not satisfied with good roads in Calcutta, nor people in Ranigunj with good roads in Burdwan; nor, let us be well assured, does it console the people who live in many thousands of mofussil villages in the district, to know that if they like to go to Burdwan or Ranigunj, they will see good roads. They would prefer to have roads nearer home—nay, at home.

Now, let us for a moment consider what has been done in this country to supply the wants of trade, of private people, and of the State in respect of cheap transport: I leave out of account everything except roads. Let us take the facts as they are; first, as regards main roads. With few exceptions, being many of them unbridged, and nearly all unmetalled, these are, during the rainy season—that is for four months in the year—impassable, and no aid to cheap transport, thus throwing out of work their corresponding aid, wheeled vehicles, which have to be laid up. Local and village roads again have been neglected. Nine-tenths of them are not looked after at all, and as for the remaining tenth, save that they are preserved from encroachment, and a small sum is occasionally spent in making up a worn out embankment or filling up a deep rut, nothing is done for these by any public authority. This is true of the whole province of Bengal, but especially of the western side where there are few rivers or canals to relieve the roads.

To enumerate all the evils brought about by this state of things would be tedious; but, as it is sometimes said that a fair-weather road is all that is required for the needs of the people, I will say a few words on that head. The stoppage of road-traffic in the rains has a bad effect on the business of merchants and railway companies. There is a rush of business for a few months before the rains, when the resources of the merchants' offices and of the lines of rail are strained to the utmost; this is followed by three or four months of idleness, when expenses continue, and there is little to do. Roads, that could be used in the rains, would ease the strain before them, and spread business more evenly over the year.

To the ryot the consequences are even more serious. He has to get rid of his produce by a forced sale almost immediately after harvest, and so accepts a low price. If he is short of supplies in the rains, when supplies cannot be brought in from without, he is at the mercy of the local usurer, and must buy at a monopoly price. The opening out of roads that can be used in the rains would tend to equalise prices of produce. Prices would be higher when the ryot wants to sell, and lower when he wants to buy. They would also enable capitalists from outside to come into competition with the local usurer, and force the latter to content himself with legitimate profits.

In the interests of the State also such roads are necessary. What Government officer has not experienced the difficulty of getting about such a district, for instance, as Hooghly in the rains? What expense, discomfort, and delay is incurred! Every officer must remember many a day spent in plunging along through mud knee-deep at the rate of a mile an hour, trying to get to a village where he had to make a local enquiry. In these days of crushing office work, officials can seldom afford to visit the interior in the rains, when travelling is so slow; and I think we often forget how hard it must be for them to get to us. Justice is made difficult. Again, merchants' business is closed for four months, not because the demand ceases, but because transport has become so costly that the demand cannot be supplied. No trade can be thoroughly satisfactory unless the cost of transport is tolerably even throughout the year; and we must always remember that the trader does not suffer alone; his customers also suffer with him.

I will not take up more space on this part of the subject. Many evils remain which the reader can easily picture to himself. But although, to tell the truth, the evil of bad roads is generally recognized, yet, we are told, all that is possible is being done, and further progress is impossible. Road Rates

have been imposed all over the country, and Road Funds have been utilised to the utmost. The poverty of the land forbids the further increase of the Road Funds, and so we must be content with such imperfect means of transport as we have. Is this so? Have we, indeed, come to the end of our resources, and can nothing else be done?

We are very fond in this country of following the lead of England, and especially as regards roads, there is a notion abroad in Bengal that we are in the very latest English fashion. A short account of the road question in England will not, therefore, be out of place here. In early days there were no roads but the parish roads. Every parish looked after its own roads in its own way, and the standard of efficiency was low. Queen Elizabeth and her nobles probably found it easier to ride than to jolt over the rough county roads in coaches, and the great city ladies went to parties in sedan chairs. There was hardly any traffic or moving about. As those who had occasion to travel became impatient of this state of things, and were unwilling any longer to be at the mercy of the parishes, a movement was set on foot, in consequence of which Boards of Trustees were formed, and by bills in Parliament were enabled to take over and keep up certain lines of road, the cost of which was to be recovered from the public by means of a toll. The first road kept up in this way was that leading from Temple Bar to Westminster. The system of turnpike roads—as roads kept up by means of tolls—spread, until in England and Wales alone there were over 100,000 miles of them, nearly all of which were, up to within about 30 years since, in ordinary use. Now, seeing that 100,000 miles of turnpike roads means in England and Wales nearly 2 miles for every square mile of country, that, besides these main roads, there were many parish roads, and that domains and farms in England are of large size and in compact blocks, we find that the roads kept up out of public funds in England literally came close to the door of every resident in the country. These were all wide roads, metalled and bridged. Meantime canals and railways had been introduced; and what with the great increase to wealth effected by the roads themselves, whereby the rate-payers were enabled to pay higher rates without grudging; and what with the diversion of nearly all the through traffic to railways and canals, whereby the cost of maintaining roads was reduced, and the cost of collecting tolls came to bear an unduly high proportion to the reduced income from them, a change became expedient. A fresh movement was set on foot for making funds derived from rates once more the sole means of maintenance for roads. It was considered that the rate-payers themselves

would be no losers, since they already paid the bulk of the tolls, and far too much of what they paid was thrown away in payment of cost of collection. From the time when this change was made, rate-payers have grumbled at the use made of their roads by non-rate payers. Although the great bulk of outside traffic went by rail, the small stream that remained was enough to cause a grievance. To remove this grievance an effort was made, first by taxing all carriages, and this year by imposing a rate on all non-agricultural wheeled traffic and horses, to make up to the rate-payers for the extra wear and tear of their roads. No place in England is now more than a mile or two from a railway station or seaport, and consequently a cart or a carriage moves about within a comparatively small circle. The plan of the Chancellor of the Exchequer to assess carts and carriages for the maintenance of roads will lay the burden more evenly on all residents who use the roads, instead of, as hitherto, on only one class among them.

Now as regards the history of the road question in England, there are two points which deserve special notice. The first is the scrupulous care with which the rates on real property were devoted to the roads in the immediate neighbourhood of the land that paid them. Up till very recent years, and virtually to this day, the parish rate, levied and spent within an area of about seven square miles, has been the only one. The second point is that traffic carried on wheels has always had to pay for the use of the roads it passes over. In the words of Mr. Goschen, the principle has been "*that all those who use the roads should pay for them, and pay in proportion to the wear and tear that they cause*". Originally, when traffic was insignificant, and the only wheeled traffic was that of the land owners and farmers,—payers of rates—and when, the roads being left to take care of themselves, the cost of their maintenance was small, the parish rates covered nearly all the traffic. Later on, when the traffic began to go longer journeys, and roads had to be kept up for its convenience, and when, as it grew, cost of maintenance increased, the traffic which was not local paid its own way, as it does now on railways and canals, by means of tolls. When the toll came to be no longer a profitable means of maintenance, and road traffic came to be once more confined to narrow circles, but trade and moneyed interests increased, and it became unfair that the landed interests, which no longer took the whole, or even the chief use of the roads, should bear the whole burden of them, the Government at first by a rate on carriages only, and now by a rate on all agricultural traffic, endeavoured to lay the burden on agricultural, trading, and moneyed interests in due proportion. There are, it is true, questions in England as to the best

way of applying the principle, but none at all as to its fairness.

By adherence to this principle from the beginning, England has given expansion to her road system, and traffic has always obtained such conveniences as it required. The principle was adopted when the country was poor, and now, when the country is rich, it is adhered to as closely as ever. We see the fruits in railways, canals, harbours, tramways, and a close network of good roads everywhere, both in town and country. Without going into details, I may give a notion of the amount which people in England think it worth while to pay for cheap transport. The amount paid in 1887 to Railway Companies in the United Kingdom was £70,000,000. I have no figures for canals and harbours. The annual cost of roads in Great Britain must be considerable, probably over £3,000,000 for town and country, of which Government granted nearly £800,000 in aid of the rates for 1888-9, and made provision for a still greater sum in the future. All these roads are now strictly local roads in or out of towns. See, too, the enormous outlay that is thought advisable for such schemes as the Manchester ship canal, the Severn tunnel, and the Forth bridge. It is not merely that we have visionaries who see these great works in fits of poetic frenzy—but that capitalists—men with money—are ready to trust their money in the schemes; that they do so, and that nobody is likely to be a penny the worse. The country has the benefit of the work, and those who gave their money to make the work still enjoy the benefits of their money.

Now let us turn to India, with her poverty, and her vast population, some ill-provided, and most not provided at all with proper roads, and ask whether nothing can be done to give her more of that cheap transport which makes wealth. There are many who advocate railways, seeing what railways have done for England, and insist on the opening up of the country in all directions by their means. But we have to consider two things in this connection,—first roads; second, the peculiar position of England.

As regards roads England was, before railways were introduced, provided with a network of roads. As, without the branches and roots, the stem of a tree cannot live and grow, so without roads, railways cannot thrive. If railways are to be made self-supporting (and only on that condition are they possible) we must provide many good roads to feed them—the more the better. Then as regards the position of England: the idea that we can do without anything between rate-supported roads and railways probably arose from want of due consideration of the condition of things there which made

this possible. England is a country where everything is in masses and large volumes. The people are assembled in towns, which means that traffic runs in large streams. The chief industries are not the production of raw material but manufactures and mines. Take the Lancashire cotton trade. Multitudes of workmen are clustered in the busy hives of Manchester and her neighbours. To them are brought from the nearest port the raw material of labour—food, and that of manufacture—cotton; and from the mines fuel. The manufactured cloth is sent back to the port in great masses, and shipped for foreign lands. All this, it will be said, is done without the aid of any road. Railways to the port, and to the mines, and even sidings into the factory enable roads to be dispensed with. Here the analogy of the tree at first sight seems to fail. But trace the cotton and food back to the fields where they were grown, and the manufactured goods out to the villages and houses where they are consumed, and it will be seen that the analogy does not fail. The flood of traffic from the former must trickle many a mile in little rills before it can gather volume and the great ship-loads of bales have to be broken up and dispersed before they reach the hamlets where they are to be consumed. The railway from the factory to the port is but the stem of a mighty tree whose branches and roots spread out to the cotton and wheat fields and hamlets of the four continents and Australia; its branches and roots are none the less vitally needful to its life because they are hidden away in foreign and distant lands. The producers of raw material, and the consumers of manufactures, generally the same people, are from the nature of their occupation, spread comparatively thinly over the land. The supply of raw material which a neighbourhood can give, and that of manufacturers which it can take, is limited. Although the traffic of many neighbourhoods united may be sufficiently large to support a railway, a gathering and distributing agency in the shape of roads is necessary, and the journey over these roads must often be long in this country, not short, as in England. Even should Indian manufactures and mines be developed as highly as the most sanguine can dream of, the great industry of this country will always be agriculture, and the main market for Indian manufactures will be India herself. Our railways, then, will be employed in conveying raw material and manufactures gathered from, and to be distributed in India herself (not in foreign countries) and to aid them in this work they need long roads of a kind now obsolete in England. Many of those long roads may in time be replaced by railways, but by that time they will have a fringe of other roads spreading out beyond. “We maun

creep ere we gang" says the old Scotch proverb; and if we want railways, we must begin by having plenty of roads.

We should compare India with England, not the rich England of to-day, but the comparatively poor England of the days when, but for the scapots, the land was poor; when inland traffic practically did not exist; when parish rates were light, and the funds not large enough to keep the roads in order. It was out of the question to impose a tax for the benefit of through traffic on the parishes; no compulsion was ever thought of to make them keep their roads in better order than they had a mind to. What was done? Did men fold their hands and sit down resigned to the decrees of providence whereby good roads could not be had unless money was forthcoming, and murmuring at the common law of England which guarded the freedom and pockets of the parishes? No: they faced and overcame the difficulty. It was all a question of what Sir F. Bramwell would call the "next to nothings:" I wish to take my goods or passengers from this point to that, but I find it is a costly business. The road is broken, narrow, and soft; there are nasty crossings; I lose time; my horse is apt to get strained; one of these trips too often involves an after visit to the coach-builder or wheel-wright; and I cannot think of carrying so heavy a load as I could if the road were better. I have been to the parish authorities and they have answered that the roads are good enough for them, and that any how they do not see the good of mending up their roads only to be worn down again by the traffic from outside, to which they can foresee no limit. Now, although the cost of such a road as I want, wide, with a hard surface, easy gradients, and good bridges, is far too great for me alone to meet out of the next-to-nothing it will save me on each trip, there are many others with precisely the same want as myself, and our common want may be supplied by joint contributions. Now, although none of us are able to made the road, it is well worth our whole to *hire* it. When there is a sufficient effective demand for a commodity to make its sale or hire remunerative, there are always ready those who will supply it; and thus arose turnpike roads, which were provided by regularly constituted authorities for hire to the public. The hire of a fixed means of transport is called *toll*. The word *toll* has fallen into disrepute because it is not always used in the same sense. In one sense, viz., that it is a payment for leave to pass, a toll is objectionable; in another, when it means the payment of hire for use, it is quite innocent. There is no reason why roads should not be kept for hire just as much as carts or carriages, and this was done in England. As a result



we see England enriched first, with a net-work of good roads, and secondly, with the canals, railways and great public works which sprang out of them, and all of which live by hire.

Why cannot we do the same in India? The English principle is in strict harmony with human nature, and may be applied with confidence wherever human affairs have to be dealt with. The man who most bitterly resents even a trifling sum of money being forcibly taken from him for use on objects not of his own choice, may be willing enough to spend freely on his own account for the supply of his own needs, or even to give something away of his own free will on charity. The rate-payers in England always successfully retained their own rates for use on their own parish roads, which were looked upon as the private property, if not of individuals, at least of the parish rate-payers as a body. When local trading and moneyed interests grew up, the landed interests insisted on their taking their share of the cost of local roads. We have forgotten all that here. The payers of rates on land alone have been called on to pay for keeping up roads; their own private local roads have been neglected, and the rates which ought to have gone to pay for them have been swept into a common fund, with which an attempt is being made to make and keep up main roads for the free use of all comers.

The single exception to this state of things but accentuates the grievance. The richest and most populous parts of the country have been railed off, dubbed municipalities, and exempted from the contributions to the common fund which the rest of the country has to make. Their rates are kept, as all rates should be kept for the private use of the community, and are supplemented by rates on wheeled traffic. So strongly does Government feel the importance of municipal roads being kept in order that there is a provision in the law by which, in case the municipal authorities fail to keep them in order, the work is to be done by a Government officer at the expense of the municipality. I remember when I was Chairman of the municipalities in the Serampore Subdivision, we were called on to pay under that provision Rs. 27,000 or so as half the cost of the repair of a single road which, in the opinion of Government, was not in good order. How names deceive! Call a group of villages a municipality and they have immediately pressing need of roads private to themselves. So pressing is the need that not even a fraction of their rates can be spent on roads outside, though their people probably cause wear and tear to those roads which has to be made good by others. But if the magic label be not on the group of villages, their pressing local needs by

a legal fiction vanish. They have to go on paying rates, it is true, but they are lucky if any part of those rates is spent within five miles of them. Now I am not aware of any state of things like this in any justly governed country. In England there is no parallel. The principle which has been faithfully observed, and which has wrought such great results there, would forbid anything of the kind; and it would be difficult to make them believe in England in what an arbitrary way the rural rates are used in this country. I believe the system which has sprung up, of appropriating rural rates for the maintenance of costly main roads without regard to the local rights of rate-payers, is all the result of a mistake. The law originally contemplated the *making* only of main roads, and not their *maintenance*. Obviously it would have been quite possible to spend the rate fund justly in the end by allotting it in turn to works for the benefit of the various neighbourhoods; for an original work needs but expenditure once for all, and then is done. Maintenance, especially of roads, on the other hand, is a recurring and growing expense. I say we can conceive of the possibility of carrying through, by successive allotments of the rates in the several neighbourhoods, a series of original works for the benefit of all. This is an awkward, slow, and meagre way of setting about it, but not in itself impossible. As a step in advance, it was probably a very great improvement on anything that had been done before. But there is no possibility of fairness when the rates are permanently mortgaged to endow a few roads only, while the whole country is neglected. I believe the mortgage is illegal and a mistake, and think that it ought to be broken. Every village has as much right to the rates on its own land for its own use when it is outside as when it is inside a municipality. The villagers have plenty of use for the money at home; and if they have not, they ought not to be made to pay it at all. This seems to be the only just and proper view of the question \*

I think that we have drifted away from the principle under the influence of a sort of helpless feeling that we must go on with what has been begun. "We have made," it was said, "these main roads, and if we let them go to pieces again, all that has been done will have been thrown away. And then what is the

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\* After the passing of the first Road Cess Act X of 1871, a proclamation was issued in 1873 under instructions from the Duke of Argyll, then Secretary of State for India, stating that "every tax-payer is encouraged and invited to claim that the tax shall be fairly applied to the village roads and local paths or water-channels in which he is interested. The Government will use every effort to see that such local claims are fairly met, and that every tax-payer derives a fair benefit from the tax which he pays."—ED.]

use of all these village roads without the main roads ? " Thus from a feeling that whether it be just or not, this appropriation of the rates for keeping up main roads is expedient, and indeed the only thing to do, we have gone further astray.

This system might be condemned, firstly, because it is unjust, and secondly, because it has failed. I have already explained why it is unjust, and the fact of its failure is a matter of common knowledge. The communities have been deprived of their rates, and the rates have been raised to the maximum, but how far have we got ? Of main roads wanted not one mile in ten has been made yet, and there is no prospect of their being made. Of the main roads made, but a small part are kept in a proper state of repair. The fact is that when people and goods begin to move about as they are beginning to do in Bengal, roads for hire are just as necessary for their comfort, and the comfort of the communities through which they pass, as inns, warehouses, carts, and carriages for hire. In England railways are now the public main roads, and are all kept for hire. Main roads were kept for hire so long as they were wanted, but being no longer wanted have dropped out of use. The rate-payers when at home use their own roads : when they move away from home, they hire roads just as they hire everything else. I would strongly urge that this old English principle be restored ; that the rates be kept for the use of the rate-payers, and roads wanted for general use be made and kept for hire by those who use them. Two good results would at once follow. The villagers, having their rates for their own use, would spend them on roads, sanitation and other useful works. They would no doubt act as other villages, which have become municipalities, thereby retaining their own rates. They would spend the money on their own local needs. Again, this widespread raising of the standard of local roads would stimulate the demand for good main roads, and the natural result would be an out-flow of capital to supply the demand. The road funds would provide a nucleus, but I think that the merchants and landholders interested would freely advance capital to start new roads, from the hire of which their capital would be repaid, and from the use of which they would gain largely in other ways. There is no fear of people not being able or willing to pay freely for the hire of roads. They pay freely for the hire of railways. Even in these days of small beginnings, the amount paid as hire of railways by the Indian Public in one year (1887) was £18,000,000. They hire carts to get to the railway, and will no doubt be equally ready to hire roads, which are as necessary as carts. I think there will certainly be found many capitalists with sufficient faith in the willingness of the public to pay, that they will spend money in providing the roads

required. The means of collection of toll is a mere question of detail, which can be settled, as it has been in the case of railways, canals, bridges, ferries and harbours.

This, then, is my solution of the problem,—that rates be kept exclusively for the private village roads of small communities, and that such main roads as are needed be provided and kept up for, and by means of hire, or in other words, tolls, just as railways are.

This proposal, if adopted, would admit of a large influx of capital into the business of providing cheap transport, and by stimulating the growth of roads and railways, would greatly encourage trade, and add to the wealth of the community. By the Government in particular, any means by which so desirable a result can be brought about, ought to be welcomed. It would, by increasing the wealth of the people, add vastly to the resources of the State; it would be the best of all famine insurances; as an educating and civilizing agency, roads and railways would throw floods of light into dark places; and they would double the efficiency of all Government officers, rendering more easy intercourse between them and the people under their care.

It may be asked what will have to be done before a trial can be made of this new remedy for an old and pressing evil. There is no need to pass any law, because two laws are already in force\* under which all that is wanted could be done. In case it should be thought advisable to recast the law, that surely may be done at any time. There is no need, however, to wait for the passing of a law. The Government of India could at once delegate to the local Governments † its executive powers, and then nothing but a notification in the *Gazette* would be wanted to set the work going. A beginning should be made, and the sooner the better. Every year we abstain from gathering in for the people this great harvest of wealth, is as if we let a rich harvest of grain die and rot on the ground. What is gone is gone, and we cannot by lamenting get it back, but why should another season be allowed to pass, and another harvest to rot? It would not be necessary for Government to force on a universal system of tolls. It would be sufficient if Government were to declare its policy, and admit and examine proposals deciding as to each on its merits. It would be for those interested to promote their own schemes, and overcome local prejudices where such existed. This is the way in which the turnpike roads and railways were built up in England, and I know no better.

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\* Acts VIII of 1851 and XV of 1864.

† [No delegation seems to be required. Local Governments have the necessary powers under s. 2, Act VIII, 1851.—ED.]

I ought perhaps to say a word or two on the attitude of the people with regard to tolls. Would they object, or would they not? This article has had to do rather with the attitude of Government which has hitherto been unfavourable to the idea. Some seven years ago, when I was a member of the Hooghly Road Cess Committee, and Chairman of the Serampore Branch Committee, the latter Committee received numerous petitions largely signed in favour of metalling a certain road (from Serampore to Shahabhallah) and maintaining it by means of a toll on traffic. Wide publicity was given to these petitions throughout the neighbourhood interested, but not a single murmur of objection was heard. The Branch Committee of which I was Chairman, sent up a proposal in favour of granting the petitions, and I made a motion to that effect in the District Committee. The motion was seconded by my lamented friend Baboo Joykissen Mookerjee and carried unanimously. When it went up to Government, however, it was vetoed without discussion. It is no wish of mine to force works of this sort on unwilling communities; all I desire is that it shall be made known that if those concerned are willing and can arrange, Government will not stand in the way. No doubt the dread of tolls which many seem to entertain, is partly due to the high scale of tolls allowed by the Act, and the fact that the tolls are to go into a common fund. Now as to these objections, I would urge that high tolls are not necessary; and that each turnpike road should be carried on as a separate business. The money collected on each road should be spent on it. I have heard fear of extortion spoken of. I should think if those who are to run the risk make up their minds to face it, others need not interfere to protect them. Once again I would insist that the question of tolls is one not of principle but of expediency. They may answer in one place, and not in another. If it be once known that Government is willing to entertain schemes on their merits, that will in itself be a great stimulus to progress. The first schemes to be taken up should be such as will enable existing main roads, that now absorb heavy annual sums for maintenance, to support themselves for the future. This would set free at one stroke very large sums for use on their proper work. I think also that the Government would do well to put pressure on Road Committees at once to take steps for relieving their funds of these heavy charges for repair, as such charges, I submit, are a standing injustice to the great body of rate-payers. I think it will be admitted that this suggestion is simple, is just, involves no expenditure on the part of any one, and yet will increase enormously, and at once, the effective power of our funds. I refrain from entering into any discussion of minor questions.

Such discussion is fruitless until this great question of funds\* is settled, and if it be satisfactorily settled, all minor details will settle themselves.

R. CARSTAIRS, C. S.

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\* [In every district the cry is the same : " We are crippled for want of funds." Many roads get no allotments at all, and others, merely nominal sums. When tolls are levied on railways, rivers, and canals, there seems no reason why they should not be levied on roads. The public will have to choose between increased local taxation or tolls. The benefit of tolls is, that those who use the roads pay for them, and that in proportion to the extent to which they use them. Government would do well to see that tolls are not where levied by Zemindars, as such levy is illegal. Reg. IX. of 1825, s. 9 : also Reg. XI. of 1825, s. 5 : Act VIII of 1851, s. 6. It has been held both by the Advocates General of Bengal and Bombay, that the opening of a bridge with a foot-way by a Railway Company, subject to payment of toll, is a usurpation of a royal prerogative.—L.D.]

## ART. X.—THE NATIONAL CONGRESS MOVEMENT.

THE direct purpose of this article is to examine the development, up to its present phase, of the Indian National Congress movement ; to forecast, if possible, the next phase on which it may be expected to enter ; and to consider, in view of the facts thus arrived at, its relations to the general administration of the Empire. So far as possible, what may be called questions of political ethics will be shunned. Dissertations on the relative virtues or capacities of different sections of the Indian community will not be introduced ; although what lawyers term judicial notice may occur of matters of this kind which rest on history. A thesis on the comparative advantages and disadvantages, of any particular form of Government, much more a eulogy or a diatribe on the character of the existing Government of India, is not within the scope of treatment intended.

If the writer has a political creed—and he trusts he may not be taken for a political agnostic,—he hopes to keep it in abeyance, as it were, until the task of diagnosis is completed.

It is natural to turn to the promoters of the movement itself for an explanation of their aims. No apology, therefore, is required for inserting in this place the subjoined extract from the latest exposition of its propaganda, in a letter, dated the 13th of October 1883, from Mr. Hume, General Secretary to the Indian National Congress, to Sir Auckland Colvin, and published in the *Pioneer* newspaper on the 7th November :—

But if we could once make the English nation at home (who have none of the prejudices on these matters that Europeans who have lived long out here so often insensibly contract), understand that we are no longer all of us children ; that, thanks to their education, numbers of us now are quite fitted by our superior local knowledge, not only to fill a great majority of the posts now held by Europeans and discharge the duties thereof far more satisfactorily than these, by reason of being foreigners, possibly can, but even to instruct and advise in most matters of domestic administration, they would at once, through their "Representatives," insist upon our association in the work of governing the country on a much larger scale than at present, and on the concession to us of some form of 'Representative Institutions.' To many of the best and highest of them the fact that the Government of India is still what they so greatly dislike, *viz.*, 'Despotic,' is a source of real regret, and they would gladly accept any reasonable evidence that the continuance of such a system was no longer necessary. Besides this, even those who are less liberal and less high-minded are sensible. Practical commonsense is the leading characteristic of the British nation ; they know perfectly well that it is better to

rule a contented than a discontented people, and one of their own holy texts says, that a dinner of herbs where peace is, is better than the grandest banquet where there is strife, and if once they saw us all, high and low, banded together and determined to obtain these 'Representative Institutions,' then they have too much common sense not to allow us to have them. (*Conversation.*)

*Rambaksh* :—But surely you don't want us to join together and fight with the Sirkar? If we killed all the Europeans, how should we get along. All would be anarchy (*ghader*) as I remember when I was young. You cannot mean this.

*Maulvi Fajiduddin* :—God forbid! This would be a sin. Why should we kill the poor Europeans? Many of them are really good men, most of them *mean* at any rate to do right. They are ignorant no doubt of the rights of most matters concerning us; they blunder, they cause us misery, but they do it from ignorance—from an ignorance unavoidable under the system which they work on, and which, even did they wish it, they could not change without our help. Besides, though we of the new generation are growing up able to assist them and do much for the country, the whole of us put together have not yet sufficient experience and self-reliance to manage the administration entirely without their help. Kill the Europeans? No Rambaksh, let us say, rather, God bless all of them (and there are many such who feel kindly towards us in their hearts, and according to their lights mean well towards us, and God forgive those amongst them, (and let us hope they are *not* many) who dislike and despise us, and care nothing what becomes of us"—(*Conversation.*)

The next quotation for which the readers indulgence is craved, is required to put the avowed teaching of Mr. Hume's associates in such a light, that they need not be mistaken by the veriest tyro in modern politics. They could be construed in only one sense by the 200 millions of Native Indians to whom they have been deliberately and sedulously addressed and circulated:—

"*Rambaksh (after some consideration)* :—Well, there is our good Queen-Empress; she never comes here certainly, and we never see her; and I hear the people in Hukkatabad sent her a petition last year, and they do say nearly a lakh of people signed it, but she never took any notice of it. But they say she is so busy there over in Vallayat (England) and has so many countries elsewhere belonging to her, that she has no time to attend to us Indians. And when I come to think of it—may God long preserve her, but I don't know that it does signify much, *to us*, *who* sits upon the Gaddi (Throne) over there in Vallayat—I must say that this is all rather like Raja Harbansia's *dustur*

*Maulvi Fajid-ud-din* :—And then look at all the *Nuhs* and *Gomshutshs* she sends. Are they not like Raja Harbansia's? Very respectable men, no doubt; they don't take bribes, they don't, certainly, try to injure us, but what do they know of us and our real wants? Don't they pooh-pooh our old customs, and, *har ki amad* (each who comes) insist on introducing some new-fangled device for improving the condition of the country which, not unfrequently, ends in doing it harm? Do they consult us? Do they ever *really* talk over *anything* with us? Do they take care to see



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that we ‘approve, agree to everything, nay, to *anything* they see fit to do? Is it not with them as with you Kambakhtpur Naibs? *What do you know, you cattle folk? Hold your tongues. Do this. Don't do this.*’ Is this like the Constitutional management of Shanshipur, or like the ‘DESPOTIC’ of Kambakhtpur?

*Rambaksh* :—Ah, Maulvi Saheb, you are a learned man, but I see now what you mean, and I suppose our Government is what you call a ‘DESPOTIC’ one, and that, perhaps, is why the whole country now is discontented (it never was so when I was a boy), why everything seems, from all I hear, to be going wrong, and why the Government *jama* is always being raised, and with it our rents, and new taxes are imposed, and \* \* \*

*Maulvi Farid ud din* :—Yes, certainly, our Government is a ‘DESPOTIC’ one, and a ‘DESPOTIC’ Government is always, when long continued, bad for every country, and we in our country are suffering in a hundred ways on this very account. But don’t think I am speaking evil of *our Governors*. . . . . What I condemn and protest against is the system; it is against the system (*dustur*) of the Government, not against the gentlemen who carry on the Government [and who are as much tied down by the system (*dustur*) as ourselves] that I complain.

The Congress then is something more than a Political Club. It is a Revolutionary League; and it needs no more than a reference to the history of similar leagues in other times and places to perceive, that if thwarted by any action of the established power in India, or the determination of the ultimate governing body in England, a certain section of what Mr. Hume has designated as the Congress Party, would, if they dared, endeavour to push their aims, by an appeal to that physical force which they pretend to represent. This force the literature, to which the above extracts belong, is designed to attract to the side of those with whose approval it is disseminated.

On the 4th November last one Ali Bhimji, a busy and acknowledged tool of the Congress, is reported as having spoken to the following effect at a public meeting convened at Lahore for Congress purposes :—

There are a set of despicable and unworthy people, whom I call traitors to the Government as well as to the country, who are most inveterate enemies of the Congress. The objections raised by the natives against the National Congress are mere matters of policy and nothing more. Remember these words very well, and if anyone says anything, or even insinuates in any way against the Congress, call him a liar to his teeth and say he is a traitor.

It is obvious that an agitation is on foot which may, in certain events, lead to the most serious consequences to the Government of the country, and to the people of the country themselves, consequences so serious that it is better not to dwell upon them here, while earnestly hoping that the worst of them may be averted.

The Government has been directly challenged to say what its policy, in the face of this agitation, is to be.

An open boast has been made of the alleged approval and sympathy of the Governor of Madras and the Viceroy personally ; \* and the Governor of Bombay, in a minute, has expressly promised, for what it may be worth, his distinguished patronage. On the other hand, the Lieutenant-Governor of the North-Western Provinces and Oudh has expressed his conviction, as a statesman versed in other than purely Indian ways, that the Congress and its latest works are opposed alike to the Government as it stands, and to the good of the people for whom its advocates profess to labour.

It is not the ambition of this Review any more than it is,—*pace* their mouth-pieces,—the duty of the Congress-people to educate the authorities into any particular frame of mind in the matter, much less to tender any ill-mannered shock to that masterly repose, the Olympic Nirvana, which affords so tempting a refuge for distressed rulers, beset on the one hand between the latest flight of spirits that has alit in the Tabernacle, newly swept, as Mr. Hume pathetically urges, of all previous tenants, and the deep sea of Party Politics in England on the other. But it is the alienable right of every loyal British citizen to speak out, when danger to the commonweal is in view, and the next phase of the agitation described above, however plausible the external shape it may assume, must, at its core, contain the elements of wide-spreading mischief.

Some of the practical questions involved already call for a solution ; for example, whether the privilege of members of the council for making laws for the province of Oudh shall extend to flagrant breaches of the laws that exist, and to the incitement—for such are the reported utterances of the Hon'ble Pandit Ajudhianath—of individual subjects to disobey and resist the mandates of constituted authority.

The course of the Supreme Government must obviously rest on considerations, in which the welfare of the country at large will be held as of paramount importance. The adherents of this movement include, no doubt, a vast number of persons of very varying shades of intelligence, education, and decision of character. Among them may be found Indians, perhaps, of every shade and hue of loyalty, from the ambitious official who dreams of a royal road to sudden preferment, to the stern philosopher that would not palter with the Mammon of the West, at least till purified by contact with the quintessence of the worshipped Cow. It is manifest that the latest Congress phenomena cannot be attributed to any catholic sentiment ruling the breasts of the tens of thousands of half-educated persons, who were induced,

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\* [This article was of course written before Lord Dufferin's speech at the St. Andrew's dinner.—ED.]

in the first instance, to pledge themselves to, they knew not what, of good and beautiful in the future of their country.

Among Bengalis themselves the feeling is growing plainly, that with the viands put upon the table at the national banquet, some very doubtful concoctions have been introduced by the head purveyors. When "Mr." Bhimji invited his audience to hurl defiance at their European neighbours, a well known and respected member of the Lahore bar, by birth a Bengali, rose to order with a promptness which the reporter's notes but feebly indicate—and the warlike Bhimji, like the Lord of Brougham and Vaux, was left alone with his raucous utterances.

The tares, in sooth, that shew at last so glaringly among the wheat, betray their origin to any skilled observer, by their unmistakable features. All the abuse, all the distortions of view, all the clumsy attempts to lash together the passions and prejudices of antagonistic classes, all the mournings over a golden age, and sighings for a just departed rule, all these black pictures of the husbandman's lot, and hollow prophecies of a softer future,—the whole budget of lies, in short,—is stale and flat, but ominously familiar.

The fortune-teller's pack is not even new; his cards are marked with grisly stains of treachery, revolt, and ruin.

In dealing, therefore, with the Congress question as a whole, the Statesman may have sympathy and pity to bestow on those well-meaning persons, who find themselves now, to their embarrassment no doubt, committed to an open programme of sedition against the Power on which, in many cases, they depend for their daily bread. Yet he will not be diverted from those measures, which experience may point out as required to check the treasonable plottings of the clique that have steered the Congress scallop into these perilous waters, and to restore the general tone of that section of the community, which when the political weather is fine, is prone to walk abroad in the borrowed plumes of a cheap democracy.

There is no particular difficulty in finding the real authors of the late attempts, so far at least, as inquiry need extend for the present.

The same irreconcilable class, that from time to time has hampered the progress of the country, which in spite of that veneer of Western teaching that it knows so speciously to assume, has learned nothing of true Western culture, has forgotten naught of true Barbarian perfidy, which sucked the lifeblood of Mogul Provinces, and drained the veins of Mahratta rapin,—which crouching by the throne of each new Conqueror or Robber, was yet as much the master of its masters, as the slave that whispered in the ear of the triumphant Roman,—that once all-powerful guild, that toiled not neither did it spin,—too proud to dig, but

not ashamed to snatch from the poorest toiler his last rag, in the name of a God, in whom the harpy did not even feign belief,—that marvellous realization, in a living society, of those social Nightmares that haunted the visions of the Attic sage,—has met its match but once in all the centuries since Menu first evolved his pious fraud, in the civilizing forces, still peacefully at work, under the broad shade of the British Empire in India.

Of such a type, a Muse, for whom true liberty was more than life itself, has sung—

“He seemed  
For dignity composed and high exploit,  
But all was false and hollow; though his tongue  
Dropt Manna and could make the worse appear  
The better reason, to perplex and dash  
Maturest counsels. For his thoughts were low,  
To vice industrious but to nobler deeds,  
Timorous and slothful. Yet he pleased the ear.”

There is something that almost moves compassion in the ant-like efforts of the Brahminical instinct to repair the inroads made on its devious labyrinths by the relentless advance of Western influences. The ingenuity and perseverance displayed in turning to account the very fragments from the crumbling fortress of artifice and superstition, would, in a better cause, deserve praise and encouragement.

The extension of the Arya Samaj in Upper India no sooner threatened to draw so many dissatisfied spirits from the orthodox ranks, that further defections towards Christianity on the one hand or Islam on the other, seemed only a question of time, than the ultramontane party (to borrow a not unfit comparison) in Bengal and Behar took alarm and action.

Agents were despatched to the head-quarters of the growing heresy in the Punjab and Upper Provinces, whose instructions soon shewed themselves in the conversion of the bulk of the Arya Societies into lodges of a reactionary association, pledged in many cases, through their office-bearers, to acts of boycotting, resistance to lawful authority, and provocation to disturbance.

An obscene libel on the Musulman religion was published by an Oudh Pandit under the auspices of a secret society, forming an inner ring to the lodges already mentioned; and similar attacks, though less overtly, appeared on those professing, and particularly on those engaged in teaching, the Christian faith in India.

This inner ring, it is believed, had one of its centres in the North-Western Provinces.

Official information, if it exists, is rightly inaccessible; but from other sources it is inferred that this organization had raised considerable sums of money, and was in corres-

pondence with certain disaffected Musulmans, chiefly Shias, and mostly followers of the ruined fortunes of the houses of Lucknow and Delhi

Its plans were seemingly unripe, though a great meeting of Delegates is said to have been planned for the Dasera season of 1881, when the precocious zeal of certain reformers at Multan precipitated matters in such a way, as to force Lord Ripon's Government, sorely against its will, to authorize such steps, as effectually damped, for the time, the ardour of what may be called the lay and serving brethren, the hewers of wood, and earners of blows, concerned.

In 1882 a meeting was, apparently, held at Patna between certain extreme members of the Hindu party and a few irrepressible sectaries of the rival creed, from which may be dated the birth of the idea of combined resistance to the English Executive.

From this period also the adoption of quasi-constitutional methods may be reckoned; though the obscurity in which the heads of the League, for reasons best known to themselves, have thought fit to envelope the rise of their now fully developed organization, leaves these important details of contemporary history too much in shadow.

In 1883, while public feeling was heated by sundry controversies, to a pitch unknown for many years throughout the country, an incident occurred, which at one time threatened to prove as handy a lever for the letting loose of fiends, as any of the monstrous tales that had gulled a more credulous generation to the commission of the foulest crimes, and involved it in subsequent and heavy retribution.

Mr. Justice Norris, of the Calcutta High Court, thought proper to cause a certain idol to appear, or to be produced, before him. From this spark the reactionary caucus in Bengal strove to light a torch that should kindle a devouring flame throughout the length and breadth of India. Meetings were held in almost every large town, at which Hindus and Musulmans, and even Christians, were present. At these, speeches were delivered and resolutions passed of various degrees of relevancy and coherency, but in almost every case of a palpably seditious tenor.

A significant fact as regards these meetings is, that while those who partook in them, (all, or nearly all of the literate class, and half of them perhaps in Government employ,) were in daily contact with European action, European thought, and the steadfast policy of strict impartiality as to creeds pursued, as every villager knows, by the British Power, yet not one for a moment stopped to sift the preposterous stories poured in his tingling ears by nameless emissaries. The

preacher came, moreover, as often as not, in the guise of a half-naked mendicant, speaking the languages of Northern India as badly as any average Englishman, and an utter stranger in custom and ideas to the mass of his audience.

It is none the less certain that the baseless fabric of suspicion and panic which those visitants made it their business to evoke, was too often successfully, if temporarily, created.

The causes of such a state of things are eminently pertinent to Congress questions at large, and may be conveniently stated here accordingly.

In the first place the number of Indians, whether educated in the current acceptation of the term, or otherwise, who have arrived at any conception of Government in the English sense of the word at all, is very trifling. Much less can they place before their minds, or rather their imaginations,—for it is the imagination first, and not reflection, that is called into play, when the typical oriental is subjected to any forcible impression from without—the idea of a dominating or consistent policy in the direction of affairs of State.

The books which ought in Indian Schools to teach the alphabet of politics in a suitable form, are either above the heads of their readers, or else convey a most erroneous notion of the facts with which they pretend to deal. This is not the place in which to ask where the blame for such a result should fall; and in any case the Department of Public Instruction in India is likely to be placed, at no distant day, before the bar of an awakened public.

Meantime the East has a copious literature of its own, which abounds with maxims and apothegms on the conduct and tendencies of Kings and ministers. The King, like other favourites of fate is normally a fool. If the fate of his subjects be unusually cross, he may be a madman to boot, or at times a Tyrant.

An Eastern tyrant is a bad King, or a mad King, or both in one, who having cast aside the restraints of religion, and still worse, of custom, spitefully entreats devout persons and ascetics, and confiscates the revenues and hoards of the holy places.

The average ruler exists to be deceived.

It is the business of his Wazirs to deceive him of his satellites to allure him,—the liberty of his subjects is in direct proportion to their success in imposing on his royal imbecility and helpless magnificence, and in evading the exactions practised in his name.

If he ever hears the truth, it comes as a revelation from his pet starling, or his pet consort, or the consort's pet cockatoo. The Arabian Nights, the immortal tales of a parrot the Lights of Canopus, nay, the Epic of Kings itself, are vouchers for the truth of this description.

The Princes of the Timurian house elected to write 'their own memoirs in their own way ; and what is the result ? Beyond a few scholars, mostly Europeans, no one in modern India ever opens the annals of the Mogul Cocur-de-lion (Baber) or the illustrious Akbar.

In the second place, the bulk of the so-called educated class do not believe that their British Rulers are at heart impartial in matters of religion. It is very well to say that ample proofs of such impartiality have been afforded ; but the class in view habitually look—perhaps one should say are only able to look—on the reverse side of the picture.

The third and greatest reason, however, for the marvellous credulity which packed the meetings of 1883, to devour with bated breath the burden of alleged onslaughts by their rulers on the popular cults, lies in the engrained character of those who flocked to hear what, in their saner moods, they would recognize to be blatant and poisonous non-sense.

Any Indian gentleman of average intelligence, if asked to name the chief inherent defects of the community to which he belongs, will usually quote the envy and perverse jealousy which form to-day—schools and colleges apart,—as much the bitter heritage derived through centuries of oppression, as they did 200 years ago. The tendency of those born in happier climes is, if any thing, to repose too ready a confidence, where trust is given or sought respectively ; but in the East,—and it must not be forgotten that India, great as she is, is but one among the many daughters of the East,—the reverse is not merely the rule, but is marked by the popular voice as the teaching of experience.

The father who should trust his son ; the husband who should trust his wife ; the master who believes his servant ; the subjects that would put their trust in princes, or the ministers of princes, are alike condemned by the universal canon of tradition from the Dardanelles to the Pacific.

It may seem strange, that men claiming to be "an educated élite," should fail to distinguish between the imperative duty that abolished human sacrifices on the one hand, and the rash meddling with religious prejudice of an Aurangzeb on the other ; yet as matters stand, not only does this confusion of feeling affect thousands of Her Majesty's subjects, but it has to be reckoned with by Indian Statesmen.

The prime mover in that particular agitation, which has formed a text for this digression, was one Surendronath Banerji, whose antecedents are too well known to call for their rehearsal in these pages. It is this man who is now conspicuous as a Head Centre in the Congress organization, if indeed he should not be credited with the whole conception of the plan of campaign

To return to the proceedings of the Hindu Renaissance party in the order of time; the agitation of 1883 produced no visible results, beyond sporadic collisions with the Musulmans in various places. The excitement merged in the general uproar connected with the Ilbert Bill; and the signs of the times, which that legislative upheaval elicited, were hardly calculated to encourage the hopes of Surendronath and his colleagues.

In 1884 a new turn was given to Hindu zeal, and a new channel provided for Anti-English propaganda and disloyal combination, by the spreading over the country of a net work of societies, ostensibly for restricting, or abolishing, the slaughter of kine, and the consumption of beef by those who are protected by the law of the land in using it. This organization works by boycotting, false prosecutions for theft, intimidation of servants and traders, and by other methods, not of course always so gross, but always more or less secret, if not illegal. A marked feature of its proceedings has been the attempt to enlist a section of the Musulmans, which has succeeded in attaching a few Shias to the movement.

Meanwhile Lord Ripon's Government had been busily engaged in introducing, what was ostentatiously described as a scheme of local self-government. The wildest theories were current in certain circles on the nature and objects of the connected legislation.

There is little doubt that the measures then announced, were expected to produce a much greater amount of change than the result exhibited. But, whatever other effect the proceedings of Lord Ripon, or rather of a coterie—partly feminine, partly clerical, but always infallible, of which that highly plastic nobleman was the visible expression,—may have wrought in India, it is certain that from this epoch should be dated two sets of political symptoms of the gravest consequence to the stability of the general Empire: one series includes those open attacks on every thing and every one belonging to the existing administration of India from the Viceroy downwards, which have flooded that section of the Press which represents the classes partly described above. The second factor, which may be said to spring directly from the same period, turns on the decreasing prestige of the District Officer, as the local representative of the Queen-Empress, and of the solid British power behind her throne, without which, indeed, that throne itself would speedily become an archaic symbol.

At the end of 1884 the irony of fate recalled the beneficent Marquis over a financial trouble.

His place, therefore, knew him no more; but his works, besides the Simla Secretariat pile, survive him.

His successor has had to meet such a wave of reaction



against the governing power, so disorganized a state of the public services, so demoralized a condition of the better disposed elements of Indian society itself, so vast an impetus to malice, prejudice, and overt sedition, as no Viceroy since Lord Canning has had to face. On the crest of this reactionary wave, the natural and inevitable outcome of what had gone before, arrived the first Congress of 1885, held, appropriately, at Calcutta.

The subsequent period has been marked, to a degree unknown for nearly 30 years, by internal disturbance, resistance to the law, faction and tumult. It so happened in 1886, and again in 1887, that there befell a coincidence of the Hindu festival of the Daserah with the days of mourning for the Grandsons of their Prophet, which call forth, with varying degrees of fervour, the pious enthusiasm of every Indian Muslim.

It would not be difficult to shew in detail the precise relation of the disturbances of 1886 to the recent attitude of a section of the Hindu majority. An instance or two will suffice to remind the reader of what no one has attempted to dispute or even to deny.

At Umballa an organized demonstration to overawe the authorities and interfere with Musulman celebrations of a lawful character, was only prevented from provoking serious bloodshed and disturbances by the promptitude of the local executive. This demonstration was headed by one Murlidhar, a native of Delhi, but a local Pleader, who was one of the Punjab "Delegates" to the Madras Congress, and has given to its propaganda so much of his time and energies, as to have earned from himself the doubtful compliment of being described by the Bengal Press as "one of our best men."

The culminating outrage at Delhi of the same year, was not officially traced, it would seem, to individual culprits; but enough is publicly known to suggest that it was planned and directed, nay, for that matter, paid for by associates of those apostles of representative government who enjoy the confidence of Mr. Bradlaugh, and, to descend to less sublime levels, of Mr. A. O. Hume.

The disturbances in question,—in fact, the whole Congress programme,—had an intimate connexion with trade rivalries, commercial speculations, and mercantile heart burnings, with the recital of which it is not necessary to prolong the present discussion. On the other hand their close affinity with the disloyal spirit of the literate class, of whom the vast majority belong to, the trading guilds or to the ritual castes,—*fruges consumere nati*,—that live as drones in the hive of Hindu money-making, is pointedly illustrated by the incident of that ill-conditioned lad, taught at the public expense, who was recently set on

grossly and wantonly to insult, while on the bench, the Magistrate of an important District.

This boy, at the preceding Dusserrah, had enacted the part of Ramchandra, the special incarnation of his sect.

Saxon energy ; English enterprise, have many enemies all over the globe.

Since the British flag first waved on the wharves of the Hooghly, till, but yesterday, it marked a bound to the Cossack's prouplings by the banks of the Oxus, it has had to brave not merely the tempests of external envy, but the risks and troubles of domestic commotion as well.

The times have changed since an Imperial Freebooter sought to ruin the hard-won commerce of Britain in distant Hindustan,—changed too, since the great Company yielded up its keys, and the memorable struggle of 1857, when many hoped that the elements of discord and rebellion in India had been crushed for ever. So, with the changing times, the policy must change of those whose first duty is to guard the ensign of England's Supremacy, English Honour, and British Civilisation in our greatest Eastern possession.

The troubles that surround their charge at the present day cannot be measured solely, as it were, against the Indian horizon.

The telegraph, the press, the uses of steam, have linked together the foes of peace, of prosperity and commerce, of society itself throughout the world, the votaries of Sagor and of Jagannath, the sullen and brooding spirits of the East, can join hands with the hirelings, whose deeds, in the name of Irish autonomy, are being dragged, even now, before the eyes of a long-suffering nation ; or graduate in mischief, outrage, nay assassination itself, in the desperate schools of anarchical conspiracy, that skulk in the dens and catacombs of European capitals.

For such contingencies the Government of the day will doubtless hold itself in preparation.

To interfere with the Congress itself, or to attach even those of its members, who are placing themselves in the same relation to manifest crime that certain members of another League are said to have held with nameless ruffians in another country, might be premature in itself, and perhaps abortive. But unless the Government wishes, when perhaps too late, to take arms at last against a sea of troubles, something must be done without delay to assert its authority, and that of its District Officers, on whom the whole fabric of India administration depends, however little it may have been of late the fashion to admit it.

The District Officer should be authorized to make it known

that such tampering with sedition as the Congress covers, will expose those holding emoluments and honours from the British Government, to the prompt withdrawal of these on proof of such complicity as must call for censure from any Government that demands the respect of oriental subjects.

To public servants of the grades most likely to be led astray, it should be frankly, if quietly, explained, that they are free to preach and practice Congress principles at their personal risk, on the condition that they first resign their pay and posts under the State. The relatives of those who take part in the Congress Propaganda should be vigilantly excluded from appointments under that paternal Government, which the responsible heads of their tribe are engaged in vilifying. Finally, the pensions of all persons engaged in spreading palpable sedition should be promptly cancelled, beginning with the grand Mahatma of the League himself, and admitted author of one at least of its slanderous and seditious pamphlets. Press prosecutions for scurrilous libels on the administration at large, and for attacks on Native officials, should no longer require the sanction of the Local Government, but should be permitted, nay, required in cases of sufficient gravity, on the responsibility of the District Officer, judging of the state of his own District.

It should be needless to point out that this involves no new or special legislation. The argument, of course, is ready on the shelf, that power so delegated might not, in every case, be judiciously wielded. It is precisely this, and arguments of the like colour, that have brought us to the present pass. A self-contained authority has withheld too much of its trust from its own responsible and accredited agents, while it lavished confidence and favour on those that shew "as adders fanged" in the light of their public manifestos.

There are other paths into which the subject might diverge. Nothing has been said of that great body of holders and tillers of the soil to whose loyalty, passive and undemonstrative if you will, so much has hitherto been due, so much must still be trusted. An apology, moreover, is due to those loyal Hindus, whom the writer would be the last to confound with the "tiny knot," to quote a Congress phrase, of selfish and reckless agitators who have plunged the country in its present state of perplexity and excitement.

Apology, too, should be made to those stout opponents of all this tall and empty talk, who bring to the contest a sound guarantee for their acts and motives, seeing that, like Hal o' the Wynd, they fight for their own hand, and care not for odds, at least such odds as Young Bengal can bring against them. How long these sturdy allies of Saxon bluntness and fair

dealing can hold out against the contumely and odium to which they stand hourly exposed, is another question. How long can the loyal Hindus resist the pressure that is being brought to bear, in a hundred ways, on their tenderest susceptibilities? How long will the patient earners of the country's bread retain their passive attitude in the face of what they, according to their lights, can but wonderingly and fearfully interpret? These and kindred problems await Lord Dufferin's successor. Their solution will demand no light measure of skill and patience, but they cannot, except at the possible cost of an Empire, be put smilingly by.

The ringleaders of this incipient treason must be firmly dealt with, if they are not to be allowed to drag thousands of misguided creatures over a Tarpeian precipice of disaster and infamy.

Then, what shall be said of those who do not hesitate, from places of the highest trust, to smile on open lawlessness and insult? Will they not pause and remember *that such acts fall within the statute* 42 Geo. III., c. 85 s. 1, which extends the provisions of 11 and 12 Will. III. c. 12 to every servant of the Queen in public employment abroad. There are friends as well as foes of the Empire in the House of Commons. Should occasion arise, a modern Burke may yet arise, more "terribly in earnest" than even Mr. Hume, who has not yet abandoned his pension on the ground of its having been wrung from the life-blood of the people. What shall we say of those who pose as the sponsors of those that invite the fanatical mob of an Indian Alexandria to tang with all the arguments but one, for and against riot and massacre?

What shall we say of him,—the Imperial Herald,—that has essayed to blazon to his countrymen that vote at home at ease, the virtues of the newest gloss upon ingratitude and envy. Does Sir William Hunter know, can he know, sitting at ease and enjoying his pension in England, the Protean ramifications, the wheels within wheels of the Congress movement? If his gauntlet has not been taken up, it is because it boots not to waste the public time in quenching the sounding brass, the tinkling cymbal, of a hollow clamour.

Quondam hi comices et Municipalis arenæ  
Perpetui comites, notaque per oppida buccæ.

Much indeed remains to say on a matter which, as the writer feels, has been too briefly handled.

But space forbids.

He would willingly have shewn that only necessity has led to this blunt outline of a present danger.

He would fain have recounted where, in his humble view, there are real grievances to be redressed, reforms that many

members of the sorely tried and much-abused Executive would gladly see initiated.

Yet order must be restored, that progress may be resumed the sooner. The pretence that all's well, the veil of hypocrisy, cannot be too soon rent asunder ; or there will yet be a rude awakening from the Fool's Paradise. The much enduring children of the soil know well enough where their true representation lies : who are the men, that in spite of calumny at home, and wrongs abroad, have not as a class been found wanting, either in genuine knowledge of the people's needs, or the courage of their convictions. If the governing heads will but encourage District Officers to say what they know and what they think, they will find themselves truly in touch with the subject masses. Let there be no more tampering with frank advice loyally tendered.

Let Governments pause before they entrust their consciences to the keeping of those whose talents shine at the expense of their loyalty. The facile tongue, the bold address, the versatile audacity and thought-concealing speech, of which the Celt for instance, can so often boast, are not the surest marks by which to choose the advisers of provincial cabinets.

The taxpayers of India were not born, any more than the commons of England, for the sport of dabblers in the art of political vivisection.

An Indian thinker of no ordinary weight has justly said, that the tendency of late has been to poise the pyramid of State upon its apex.

Let no time be lost in replacing its natural foundations.

We might spare, perhaps, one or two at least of the many maxims which a wise and eloquent pen has lately quoted. But we should disturb, at our peril, the modest mist that presents to millions of its Indian subjects, the embodiment of a just and peace-maintaining rule.

*Usque adeo nihil est quod nostra infantia cœlam "*  
*Hausit Aventinum, bacā nutrita Sabina ?*

There are signs that the current agitation may fall of itself a prey to that moral jaundice with which its frame has been from the first infected.

But the venom that inflates this newest crest of the hydra of pampered discontent will lose none of its force, though it creep back to its native swamps and congenial obscurity. Among the latest and grotesque mutterings of the Congress preachers, there figure sundry bizarre recastings from the studios of the Dilettante School that has done so much to sap the life of modern England. South Kensington has its share to answer for with regard to passing events in India. In the name of Art and Letters many a stone

has been brought to that fane of sweetness and light that has a Naoroji for its Zoroaster.

The booth keepers of Vanity Fair, the parasites of a plutocratic age, are wise enough in their generation to nurse the spawn of an hermaphrodite aesthetician.

Such—and that they exist, let the Deccan witness,—would turn, if they could, the empire that has been painfully built up with the toil and blood of freeborn Englishmen, to a Ruskinian Device or a Projector's Bubble. The way that Indians have of late been treated in England,—the handling of a dearly won possession as if it were a strange and popular toy,—the fussy patronage that at once repels the Oriental Dignitary, and corrupts the Oriental Parvenu, all this has helped to swell the tide that confronts the weary but staunchly loyal servants of the Crown in the daily toil that daily grows more thankless and more bitterly invidious.

The Gospel of Rose-water, or—to speak by the card,—the Evangel of Attar and Pân has had its day.

The Departments, each in turn, have had their chance, and he that runs may read the writing which they have called forth upon the wall among them.

It is time for the mere administrator to step in.

Else before long, there will remain one course, and one course only, for the reclamation of India.

Unless the Civil Power is prepared to uphold, with no faltering hand, the dignity and authority of its Executive officers, and to nip patent rebellion in the bud, then all too soon must the Civil Power make way, as was pithily said of late, for the men of Iron.

It is in no rampant Anglo-Saxon attitude, in no alarmist spirit, but in all sober earnestness, and with heartfelt indignation against those who are traitorously eaving the salt of Her Majesty the Queen-Empress, that the writer has felt it his duty, as a loyal servant of the Crown, to sound this note of warning, none too premature, none too emphatic. Meanwhile though the times are somewhat out of joint, it ill becomes the loyal friends of India to despair of a common weal, the helm of which will rest in the grasp of a tried and trusted servant of the Empire.

Excudent alii spirantia mollius aera  
Credo equidem vivos ducent de marmore vultus  
Orabunt causas melius, coelique meatus  
Describent radio, et surgentia sidera dicent.  
Tu regere imperio populos, Romane, memento ;  
Hæc tibi cuncta arces. Pacisque imponere morem,  
Parcere subjectis, et debellare superbos.

AN INDIAN TAXPAYER.

ART. XI.—AN OUTLINE SKETCH OF THE  
VICEROYALTY OF THE MARQUIS OF DUFFERIN  
AND AVA.

[DECEMBER 1884 TO DECEMBER 1868]

THE writer is an official and has no desire to criticise freely and boldly, as an independent pressman, the measures and the policy of a departing Viceroy. But it is important at the present juncture that the public and the press (Native and Anglo-Indian) should know exactly what are the measures, and what the results which they have to criticise; and for this purpose it is advisable to place on record a succinct but comprehensive summary of the principal administrative acts, measures, and events of the Viceroyalty of the Marquis of Dufferin and Ava. The Roman satirist advises epic poets to plunge at once in *medias res*, and as the writer has to record a summary of the epic events of a great Empire, he will take this advice.

Bearing our purpose in mind, we will split the administrative record up into six divisions—corresponding to the six great Departments of the Government of India.

*I.—Military and Marine.*

So determined and so rapid has been the advance of Russia in Central Asia, that the Indian Government has been brought into immediate contact with one of the Great European Powers. A sense of safety and security from external dangers is essential to the cultivation of the arts of peace, and to the progress of civilisation. Lord Dufferin has been compelled to act on the adage, '*si vis pacem, para bellum*'; the measures taken for increasing India's military strength and for improving her defences, have been forced upon him; and had he omitted to take such measures, he might well have been blamed for neglecting to safeguard the interests of the Great Empire entrusted to his charge.

The Home Government has been recommended to abolish the Presidential system, and to amalgamate the army in India under the Commander-in-Chief in India. Every British Cavalry Regiment has been increased by a squadron, and every British Infantry Regiment on the Indian establishment by 100 additional rank and file. In addition to this, three battalions of infantry and 11 batteries of artillery have been added to

the British forces in the Indian establishment. At the same time three new regiments of cavalry and nine battalions of infantry have been added to the Native army, which has also received an augmentation of 1,770 artillerymen and 700 sappers and miners. Thus the army in India has been increased by over 19,000 men in addition to 10,000 British soldiers. This increase in numbers is expected to bring about a great increase of efficiency in time of war. An army reserve, which can lawfully be called out, has been formed under Act IV of 1888. Under this system soldiers will not entirely sever their connection with the army; but will retire on reduced rates of pay, still remaining liable to serve on any emergency. Many Native soldiers have lands, and it is for this reason that they often take their discharge after only 5 or 10 years' service. The continuance of a small rate of pay will probably tempt many to remain on in the army. Along with this increased efficiency of the British and Native armies, the troops of the Native Chiefs are being improved, and the Indian Government is supplying them with better guns and rifles. As to the practical outcome, a recent instance is furnished by the despatch of 1,000 men from the Kashmir State to serve in the Black Mountain expedition. Then, very complete arrangements have been made for mobilization. The necessity for mobilization forms one of the recommendations of the Army Organization Commission of 1879. But it was reserved for Lord Dufferin to carry it into effect. A Mobilization Committee was presided over by the Commander-in-Chief in 1886, and the scheme then drawn up provided for the mobilization of two army corps and a reserve division. Every unit of the army now knows what it has to do in time of emergency. Commanders know where to indent, and each department of the army, Ordnance, Medical, Commissariat, Transport, and Veterinary, knows exactly what it will have to provide. Field intelligence, surveys, and military accounts have all been systematised, and even civil departments, such as the Telegraph and Post office, have been brought into harmony with the general system.

Nor have the defences of the Empire been neglected, whether coast, frontier, or internal defences. The works at Aden are drawing near completion, and schemes have been commenced for the defence of Bombay, Karachi, Calcutta, and Rangoon. As regards the defence of the frontier, communications have been improved by the Sind-Peshin Railway, which is being passed through the Amran Range by means of a tunnel; the Bolan line; the Sind-Sagar Railway; the road from Dera Ismail Khan to Khushalgar, and that from Dera Ghazi Khan to Peshin; the road to Kashmir; the bridge over the Sutlej



at Ferozepur, and that over the Chenab at Sher Shah. Among other frontier works may be mentioned the defences of Peshawar, Jurnood, and Attock; the provision of a defensible Serai at Landi Kotal, and the defences of Peshin and Sukkur. Hand in hand with the military defences, submarine defences are being undertaken at the principal ports; and the Indian Marine, which was previously neither under the Naval Discipline Act of 1866 nor the Merchant Shipping Act of 1854, has been placed by Act XIV. of 1887 (the Indian Marine Act) upon a legal basis.

The military events of Lord Dufferin's Viceroyalty have been the campaigns in Burma, Sikkim, and the Black Mountain. The first was brought about, partly by the diabolical atrocities of the Burmese, which were such as to horrify the civilized world, and partly by the secret intrigues of the French. The capture of Mandalay in November 1885 was a brilliant military achievement. The Sikkim war was necessitated by the aggressions and encroachments of the Tibetans. A signal defeat has been inflicted on the Tibetan Army, which should keep Sikkim free from Tibetan interference in the future. The Indian Government has displayed an unexampled patience and forbearance throughout, so much so that a savage nation like the Tibetans naturally mistook long-sufferingness for timidity, and behaved accordingly. Even now, with the road to Lhasa open before them, the Indian Government is again holding its hand, so as to avoid giving any offence to China. The Chinese Ampa is now on his way to the British frontier to aid in the settlement between India and Tibet. On the North-West frontier the objects of the Black Mountain expedition have been fulfilled. The tribes refused to accept the terms offered, and it was therefore determined to teach them a sharp lesson. The thing was taken in hand in no half-hearted or uncertain manner; and the Akazais, Hasanzais, Tikuwals, and Parani Saiyyads have all submitted; while Maidan and Palosi, the principal strongholds of the Hindustani fanatics, have been destroyed. 300 Afridis of the Khyber were attached to our troops, and did excellent service.

## 2 — *Foreign.*

From Military to Foreign is a natural transition. Here and there the one department overlaps the other, and for the successful operations of the Military Department, a fair share of praise must be accorded to the diplomatist. The heads of both Departments have been in perfect accord, and the foreign portfolio has been, to a great extent, in the hands of the Viceroy himself. The Empire has had the advantage of the ripest diplomatic experience drawn from the great European capitals and elsewhere; and, thanks to that experience, the

barque of the State has been steered through not a few momentous crises safely into port.

The delimitation of the North-West frontier of Afghanistan has been practically completed by Majors Yate and Peacocke. The Russian attack on the Afghans at Panjdeh on the 30th March 1885 threatened to mar the success of the negotiations; but the Amir, who was then at Rawal Pindi with the Viceroy, declared that he would throw in his lot with the British, and placed himself and his army at our disposal. The departure of a mission to Cabul was prevented by the revolt of Ishak Khan; but it was inevitable, as the Amir was compelled to go to Turkistan to reconstruct the Government abandoned by Ishak Khan after his defeat at Ghaznighak. Sirdar Ayub Khan was brought to reside in Rawal Pindi in April 1888, and with this event the future of Afghan politics seems to have been entirely placed in our hands.

It is probable that at no previous time have the relations of the Viceroy with the Native States been more intimate and cordial. There are 800 such States, great and small, covering an area of more than one-third of the whole of India; they are outside the pale of international law; their interests are identical with those of the British Indian Empire; and in return for the peace and security they enjoy, it is their paramount duty to actively co-operate for the furtherance of imperial interests. The British Government is bound to protect them all, and it is its object to see that the peoples of these Native States are as free from tyranny and injustice as the inhabitants of a British district. Interference in the internal affairs of Native States is often a delicate and difficult matter; but the principle has frequently been laid down that the British Government is itself, in a measure, responsible for misrule and gross abuses in a Native State, and Lord Dufferin has adhered to, and acted on this principle. It would, of course, be unreasonable to hope that the subjects of an Eastern potentate can ever be so lightly taxed, so secure of the fruits of their labour and of their domestic honour, so free from injustice and oppression, as the subjects of a British district. The contrast is strikingly exemplified by the migrations which are constantly taking place from Native States to the adjacent British districts. Still, the divergence tends to become less and less with time, and this is the object which has been aimed at by Lord Dufferin's Government. The magnificent offer made by the Nizam in 1887 is a substantial and striking testimony to the cordial relations between him and the Viceroy, and to his loyalty and devotion to the Queen-Empress. Such relations on the part of the Indian Princes generally were strengthened and cemented by the visit which many of them paid to England at the time of the Jubilee.

3.—*Public Works.*

It would be the acme of folly to spend large sums on internal improvements without first safeguarding the Empire from external aggression; and the imperative necessity of doing the latter, has prevented that rapid extension of the railway system which is so desirable. But considering the large sums which it has been found necessary to spend on frontier defences, much has been achieved. Railways, other than military railways, are subdivided into (1) productive railways, or railways constructed for commercial purposes only, and expected to pay 4 per cent. on the capital invested within five years of their being opened for traffic; (2) protective railways, designed to assist in preventing famine; and (3) railways, both protective and productive. The mileage of the former class open for traffic has risen since December 1884 from 7,132 to 7,608 miles, and 753 miles are now under construction; of the second class, there are now 317 miles open as compared with 145 in 1884, while 488 miles are being constructed; and of the third class there are 4,088 miles open, as compared with 2,501 in 1884, and 1,393 more miles are under construction. The Bengal-Nagpur line will shorten the route from Calcutta to Bombay, and open up the wheat-producing districts of the Central Provinces. It will be seen that, apart from the military frontier railways, of which 670 miles have been opened during Lord Dufferin's administration and 211 are now under construction, 2,235 miles of railway have been opened since December 1884.

Passing to irrigation, we find that the outlay was a crore of rupees in each of the years 1885 and 1886, and slightly less in 1887 and 1888. The Swat river, Betwa and Gokak canals, and part of the Ckenab river have been opened. A project for diverting the water of the Penjar river in Madras has been sanctioned, and the Western Jumna and Jhelum river canal projects in the Panjab have been recommended to the Secretary of State. The latter will, it is estimated, irrigate 423,360 acres. The area irrigated by all kinds of irrigation works in India was in 1886-87, 7,806,203 acres, or 1,500,000 acres more than in 1879-80.

4.—*Finance.*

It will perhaps be fairer to reserve the actual civil administration to the last. Reforms cannot be carried out without increased expenditure; and it is just to give some idea of the financial difficulties with which Lord Dufferin's Government has had to contend. We have first, the continued fall in the value of silver as compared with gold, and, secondly, the increase in the military charges. When Lord Dufferin assumed charge of the Government, the value of the rupee was 1s. 7<sup>2</sup>/<sub>d</sub>; it is now

is. 4½d.; it fell in May 1888 to is. 3½d. The loss by exchange, which was in 1884-85 Rx 3,351,603 is estimated in 1888-89 at Rx 6,491,000. The military charges proper, which in 1884-85 amounted to Rx 16,963,803, are estimated in 1888-89 at Rx 19,969,000. Thus the gross increase of expenditure between 1884-85 and 1888-89, which has been caused by loss of exchange, and the increase in the military charges combined, would at the existing rate of exchange amount to over Rx. 6,000,000.

In the face of such increased expenditure, Lord Dufferin's Government can hardly be blamed for having imposed an income-tax. The tax is 4 and 5 pies in the rupee, the former rate being imposed on incomes ranging between Rs. 500 and Rs. 2,000 per annum, and the latter on incomes exceeding Rs. 2,000 per annum. This tax has increased the revenue by Rx 800,000, not counting what may be expected from Lower Burma, to which province the tax was extended on the 1st April 1888. The Imperial revenues have also gained Rx 550,000 annually by revision of the Provincial contracts in 1887-88; and the diversion of the Famine Insurance Grant was equivalent to another gain of Rx 1,248,000. But still an equilibrium between receipts and expenditure had not been attained; and in 1888 the salt duty was raised from Rs. 2 to Rs. 2-8-0 a maund in continental India, and from 3 annas to 1 rupee in Burmah. Advantage has also been taken of the marvellous extension of the use of kerosene oil to impose an import duty of 5 per cent. on petroleum. This seems to be a most judicious tax, and, like the salt duty, peculiarly suitable to India. The use of kerosene oil has penetrated to the remotest mofussil villages: and it is so much cheaper than mustard and other oils, that it might bear a duty of 15 per cent. without driving it out of the market, or even materially decreasing its consumption; inasmuch as, though it might be dearer, it would still be cheaper than the mustard oil which the villagers had previously used. The salt duty, it is expected, will bring in an increase of revenue to the extent of Rx 16,00,000, while the petroleum will bring in about Rx 65,000.

One of the most useful measures of Lord Dufferin's Government was the appointment of the Finance Committee, whose report is truly a 'monumentum aere perennius,' testifying to the Herculean labours of its members, and especially of its able and indefatigable president Sir Charles Elliott. Though all the recommendations have not been carried out, yet the facts and figures brought to light by the Committee have put an end to extravagance in all directions, and have initiated an era of very strict economy. The control of the Government over new expenditure is sufficiently effective, but the principal object

of the appointment of the Committee was to bring under review scales of expenditure sanctioned in the past, and to see whether its continuance was absolutely necessary. Those recommendations which have been adopted, have already resulted in an immediate or prospective saving of Rs 177,400; and further savings may be anticipated from a consideration of those recommendations which have not yet been finally dealt with. All absolute or comparative sinecures have been marked down, though in many instances vested interests are being respected. For the future the Financial Member will find it an easier task to preserve his adamant attitude. Meanwhile Local Governments bewail their inability to meet local needs, and the only solution of the problem seems to be 'local taxation for local wants.' Still imperial exigencies are paramount to provincial wants. *Quid dices sine pace Britannicâ?* It is in consequence of the expenditure above alluded to that the wealthy landlords of Bengal can enjoy their lands, crops, orchards and fisheries, can live at ease in *pucca dâllâns* and variegated *boutakhanas*, can feast their eyes on *jattras* and *nautches*, and bid them, when they list, to their *bâghân-atchâllâs* and other retreats of pleasure. Imperial needs must first be satisfied, and in April last the Secretary of State pointed out the injustice of the existing arrangements by which immunity from financial difficulties is secured to Local Governments, though the Imperial Government may be in the greatest financial straits. When this dispatch was received exchange was at Rs. 33½d., and there was a prospect of a further decline in the opium revenue. Proposals have now been made to Local Governments, the final effect of which will be to devolve on them the duty of finding funds, by local taxation or otherwise, for purely local needs, such as education, sanitation, and roads and buildings.

Exchange and the ever-diminishing rupee! This is the nightmare not only of the individual Anglo-Indian toiling for wife and family at home, but of the Indian Government itself. Lord Dufferin has had no matter more at heart ever since he took up the reins of office. The Indian Government has grappled with the Lords of the Treasury, and has, so far as arguments are concerned, won a signal and an easy victory. In February 1886 the Secretary of State was asked to reconsider the question, whether a fixed ratio of exchange between gold and silver could not be established. The result of much correspondence was the appointment, on the 6th September 1886, of the Royal Commission to inquire into the recent changes in the relative values of the precious metals. The Commission has recently presented its report, from which it appears that a majority of its members have recommended the immediate

adoption, by international agreement, of measures which will bring about a stable ratio between gold and silver. Even those members of the Commission who do not endorse this view, attribute the dislocation of the relative values of gold and silver, not to the excessive production of the latter precious metal, but to the discontinuance of the arrangements which existed prior to 1873. That the Indian Government have been strong enough to push this matter home and snatch a signal victory for bimetallism is no doubt due, in some measure, to the fact that they have had at their back a statesman, whose high reputation and name is a synonym for ripe experience in the political world. The adoption of the course recommended by a majority of the Commissioners is only a matter of time. Meanwhile exchange has improved, and the improvement in the opium revenue has been so great that, even including the cost of the Sikkim and Black Mountain expeditions, the Finance Minister anticipates equilibrium between the receipts and expenditure of the current year.

The excise administration is under the Financial Department, and deserves a passing word. In 1887 the Indian Government sent home a remarkably powerful dispatch to the Secretary of State as an answer to complaints both in India and in England that their excise policy was encouraging drinking generally, and with particular reference to the Bombay Presidency. It was conclusively shewn that the agitation had been got up by the drinking classes, who wished to have liquor cheapened, and that the policy of the Government had enhanced the price of liquor, and put obstacles in the way of freely obtaining it. The outstill question in Bengal is receiving attention, and probably there will be a return to the distillery system.

##### 5.—*Revenue.*

We now come to the civil administration proper. With unusual military expenditure, and abnormal financial difficulties, it might be supposed that civil reforms have lagged behind. But the record of what has been effected proves that this is by no means the case. "We have done," said Lord Dufferin at the St. Andrews' dinner, "a great deal more in these directions than anybody imagines." The condition of the masses has been a matter of the greatest solicitude to Lord Dufferin, and the recent comprehensive inquiry into the economic condition of all classes of the population, has been one of the outcomes of such solicitude. The result of that enquiry has been on the whole encouraging, but without it we should never have had the frank admission that "it is undoubtedly the case that in certain districts, whose inhabitants are to be numbered by millions, the means of existence provided by the soil are

inadequate for the support of those who live upon it." The candid recognition by Government that a grave evil exists is the first step towards its removal. In the thickly populated districts of Europe, there are not more than 400 to 500 persons to the square mile, whereas in Oudh, Behar and one or two other crowded localities in India, they exceed 700 or 800 to the square mile. Lord Dufferin has keenly recognized that the main remedy for such over-population and its concomitant ills, lies in the expansion of manufacturing industries and in emigration. As regards the former, he has restored, to a great extent, the sense of security which had received so rude a shock in the time of his predecessor, and has nursed and watered into new life the sensitive plants of capital and enterprise. Emigration has been encouraged, and special facilities are being afforded for sending colonies of landless labourers to Burmah. In this way the dangers of famine are being anticipated during times of peace and prosperity, and an effort is being made to relieve of their surplus population those areas which are too thickly populated. Advantage has been taken, of the last four years of freedom from famine, to thoroughly consider the proposals of the Famine Commission. Each province is now provided with a Famine Code, the provisions of which, if observed, ensure that no Collector of a district shall ever be taken by surprise. What with the immense development of internal trade, and the extension of railway, and irrigation, the battle against scarcity and famine will not be so hopeless or difficult as it has been in the past.

That Lord Dufferin has had the welfare of the agricultural classes at heart, is evident from the agrarian legislation which has been one of the great features of his viceroyalty. Three Acts have been passed for Bengal, the Punjab, and Oudh, the main object of which has been to strengthen the occupancy rights of tenants, to ensure their stability by legal guarantees, and to secure all cultivators of the soil from arbitrary eviction or enhancement. The provinces affected by this legislation contain between 19 and 25 millions of agriculturists. In the Punjab the new Rent Act has been supplemented by an exhaustive Land Revenue Code. Certain defects also have been remedied in the Rent and Revenue laws of the North-Western Provinces, Burmah, and Assam.

#### *6.—Home and Legislative.*

Last, but not least, comes the Home Department, and her twin sister the Legislative. We may take these two together, for the one cannot exist without the other. The Home initiates almost all important measures: the Legislative gives them legal form, symmetry, and regularity.

The maintenance of law and order, and the suppression of crime have received considerable attention at the hands of Lord Dufferin's Government. It has been recognized that the status of the police should be raised, and especially of the lower grades. It was thought that the pay of Sub-Inspectors and Head Constables might be raised by abolishing the grade of Inspectors, and Local Governments have been asked to report on this proposal. The status of the village police has been raised in several of the provinces immediately under the Government of India. Owing to the serious rioting in Upper India between Hindus and Mahomedans (especially on occasions when the Dusserah and Mohurrum festivals fall together) it has been felt that the ordinary police are not strong or well-disciplined enough to control large mobs excited by religious differences, and it is proposed to make them more efficient for such purposes. A review of the criminal administration of the last decade has been written, and on the basis of this review, measures are to be taken for the attainment of better results in the prevention and detection of crime. At present it could hardly be written of India that "*raro antecedentem scelustum deseruit pede Pena clauda*," especially if the "scelustus" be a well-to-do man.

The sentenced criminal is an object of care and solicitude in all civilized countries, an attitude which is very incomprehensible to many Native States, where prisoners are little cared for, and escapes are almost welcomed as saving the State from an expenditure which is grudgingly incurred. In India the treatment of sentenced criminals compares favourably with even that in England, and the keenest opponent of Lord Dufferin's Government would be compelled to acknowledge, that it has been conspicuous for its endeavours to enforce humanity in the jail administration all over the Empire. The avowed policy has always been to combine humane treatment of prisoners with punishment which shall be sufficiently severe to act as a deterrent; but jail statistics and jail discipline have never before been the subject of such close supervision and scrutiny. Year after year during the past four years we have had careful and exhaustive reviews of the jail systems of the various Local Governments; and the fruits of this unremitting attention are observable in the improvement of discipline, the diminution of unnecessary punishments, the comparative infrequency of corporal punishments and reduced diets, the amelioration of the health of the convicts, and the establishment of reformatories for juvenile offenders. The sick and death rates among the prisoners have considerably decreased, and this improvement has been most marked in the province of Bengal. Reformatories have been established in all the



large provinces of India, except the North-Western Provinces and Oudh and the Punjab, and measures are being taken to establish one in the former Provinces. Finally, a Committee has been appointed with the object of introducing further improvements and a greater uniformity, especially in the matter of expenditure.

As regards sanitation perhaps little has been actually effected; but the way has been paved for doing much. The Government has given its serious attention to the subject, and has laid down the lines upon which sanitary reform should be applied to towns and villages. At present the vital energies of the people are crippled by various diseases directly attributable to insanitary conditions, and the object of Government is to bring home to the minds of the people how disastrous it is to live under such conditions. In the resolution issued on July 27th, 1888, the Government of India pointed out that the recent legislative enactments relating to Municipal Committees and Local Boards had provided efficient agencies for supervising the execution of sanitary reforms; and in order to assist these local agencies, and to compel them to do their work properly, it has been decided to appoint in each province a Central Sanitary Board with considerable powers of direction, interference and control. Especial attention is to be given to drainage, the provision of pure water, and simple rules to regulate village sanitation. As remarked by the Public Health Society of Calcutta, this resolution "affords a convincing proof of that singular care for the happiness and well being of the people, which has marked the whole of the administration of His Excellency the Earl of Dufferin. When it comes to be better understood, and when its profound and far reaching suggestions for the comfort and happiness of the people are generally appreciated, it will work a revolution, the effect of which will not only redound to the honour of British rule, but give that rule a new and stronger claim upon the affections of the peoples committed to its care."

Vaccination has made great strides during the past four years; and before the institution of Lady Dufferin's Fund, little or nothing had been done for the medical education of women. This will be more appreciated a decade hence, and probably the name of Dufferin will then be familiar in the mouths of the people as household words. For the present much prejudice and much passive opposition has to be overcome.

Many are of opinion that the Government has done too much for education, and that it would have been better for the people had sanitation been regarded as of paramount importance. Lord Dufferin has recently issued an important

resolution on educational policy, in which it is laid down as the duty of Government to encourage primary education, but as regards higher education, it should retire from the field as soon as local efforts or private enterprise shows itself able and willing to supply the educational wants of the people in any locality. The inspecting agency is to be kept separate from the teaching staff, and an attempt is to be made to establish technical schools. Last, but not least, is the preparation of a Moral Text-book, based upon the fundamental principles of natural religion. Under the orders of the Government of India, Sir Alfred Croft has written a complete account of the results of public instruction in India since the Education Commission. This shows that the Mahomedans have, to a great extent, taken the advice given them, that they must rely on their own exertions and not depend on any special assistance from Government. The result of our educational system is, that for every post in Government service there are fifty applicants, and the object of Lord Dufferin is to supplement the narrow literary course by education in the arts, handicrafts, and sciences. The determination to have a Moral Text-book is the result of the irreverence and irreligion for which young India is conspicuous. Family ties and caste obligations have been loosened, while nothing has taken their place; parents complain that they have no hold over their sons; schoolmasters bewail the want of respect and discipline; while Government has at last come to see that the absence of all moral or religious instruction, weakens or destroys all the best elements in the human character.

As regards Local Self-Government, Lord Dufferin has had to carry into practice the principles initiated by Lord Ripon. Circumstances, which it is not necessary to allude to here, rendered this a task of exceptional difficulty, and perhaps the country owes much to Lord Dufferin for having checked the pulling steeds, and somewhat moderated the pace of the administrative coach. But moderation of pace does not necessarily mean any diminution of real and solid progress. In this matter the appointment of the Public Service Commission disproves the allegation that Lord Dufferin has not given Her Majesty's subjects in India as large a share in the management of their own affairs as was compatible with the common weal, *Salus Republicæ suprema lex*—and this maxim is the key-note of Lord Dufferin's administration. In 1885 was passed the Local Self-Government Act for the great Bengal Proconsulate, and new Municipal Acts have recently been passed for the Presidency towns of Calcutta and Bombay. In all these measures sanitation has been prominently kept in view. Lord Dufferin himself has emulated Haroun Aliaschid and penetrated slums

in the native town unvisited before by any Viceroy, and he has done his best in various ways to remove from Calcutta the stigma which now attaches to it, of being the focus whence cholera is disseminated over the globe.

The Public Service Commission was appointed in October 1886, and presented its report in the middle of January 1888. It was a strong and representative body, and even those who decried it at first and made aspersions on the *bona fides* of its originator, have, since the publication of the Report, come to see that such imputations were thoroughly undeserved. The principal recommendation of the Commission is that a hundred offices, heretofore reserved for the Covenanted Civil Service, shall be thrown open to the Provincial Service, and thus placed within the reach of our native fellow-subjects in India. The recommendations as to other departments follow the same lines, and the practical result will be that natives of the country will be admitted to a larger share of the higher posts in the administration. Are these mere words and not deeds? *Si monumentum requiras*, look at the recent appointment of Dr. Gajadas Banerjee as a third Native Judge of the High Court.

*Quid leges sine moribus?* But the morality of a nation may be improved by good and wise laws. "Though," remarks Bentham, "morality and legislation have not the same circumference, they have the same centre; and the former has a tendency to follow in the footsteps of the latter." The Legislative mill, then, in a backward Eastern country, replete with bad social customs, should generally be at work. Though we have had no large codes or heroic measures during the quadrennium under review, still there have been a number of excellent well-considered Acts, by which the administration of various parts of the Empire has been much improved. Those who never see the Regulations framed under the Statute 33 Victoria, can have no conception of the amount of legislative work turned out; and we suppose these Regulations—model combinations of executive sense and legal perspicuity—are never looked at save by those whom they immediately concern. With Acts and Regulations combined, Burmah has been given a perfect Code of criminal, civil, and revenue law. Upper Burmah, consisting of 60,000 square miles and a population of about three millions, has been divided into four divisions and 17 districts. Order is now maintained by a strong body of military police, under the control of civil officers. The authority of the village officers has been strengthened, and the village system has been remodelled and placed on a satisfactory basis in accordance with the ancient customs and institutions of the people. It took eight years to pacify the Province of Pegu, and it has naturally taken some time to

restore order in a country (larger than France), which had been a prey to lawlessness, rapine, and organized dacoity for generations.

The Bengal Tenancy Act and the Panjab and Oudh Rent Acts have already been mentioned ; a new Telegraph Act has been passed as Act XIII. of 1885 ; and a law has been passed to facilitate the construction of Tramways. Particular attention has been paid to the constitution of the Civil Courts, and Acts dealing with these Courts have been passed for Bengal, the North-Western Provinces, the Panjab, the Central Provinces and Assam. A Bill dealing with the Civil Courts in Burmah is now before the Legislative Council. The main object of this legislation is to make justice accessible to all classes, and to prevent the victory being to the long purse. There have been unmistakable signs during the past decade that civil justice has sometimes proved a curse to the people : that facts are sacrificed to law, and substance to mere form ; that an elaborate system has been abused and made to work injustice ; and that a poor suitor is no match for a wealthy opponent. It has been Lord Dufferin's desire to simplify civil justice and moderate the tyranny of law.

Commercial interests have not been neglected, and the way has been paved for considerable amplification by a commercial Viceroy. The Inventions and Designs Act of 1888 has taken the place of the old Patent Law : the English yard has been declared to be the standard linear measure for India ; and the law relating to Merchandise Marks is being brought into unison with that of England. By the Act of 1888, debtors in India are now given the same protection as debtors in England, though the sense of the country has not approved of this particular bit of legislation. As regards matters Marine, we have been given the Indian Marine, the Indian Sea Passengers, and the Native Passengers' Ships Acts. The last named measure facilitates the pilgrimage of Indian Mahomedans to Mecca and Medina. Formerly the sufferings of these pilgrims were very severe : and they were subjected to many oppressions and extortions. Arrangements have now been made with Messrs Thomas Cook and Son to convey the pilgrims to Jeddah and back, and to protect them from ill-treatment and extortion.

Local autonomy has been furthered by the establishment of a separate Legislative Council for the North-Western Provinces and Oudh, and it is contemplated to establish one for the Panjab. The principle of the Indian Legislative Council is : "uniformity when you can have it ; diversity when you must have it ; but in all cases certainty." It is perhaps a mistake to aim at too much uniformity on a peninsula, which

is a veritable "congeries gentium:" rather the principle should be to make each Province a separate water-tight bulk-head, so that if any particular system fails, the failure may not be universal. Decentralisation, the responsibility of Local Governments and local bodies for local needs and wants, is the order of the day. It is only fair, then, that Local Councils should legislate regarding their own affairs; and the Government of India has urged the Secretary of State to relax the provision of the statute, which prevents a Local Council from amending or altering any measure undertaken before its establishment in the Supreme Council.

Such is the record, in bare outline, of the Viceroyalty of the Marquis of Dufferin and Ava. He leaves India, not to seek repose in his native land, but to serve his country in another post of honour and trust. The Ambassador in Rome, looking back on his Indian Proconsulate, may well exclaim: "*Et militari non sine gloria*" Having regard to the events of the past four years, we would select the motto "*mens æqua in arduis*" as best illustrating the temperament of the man and the times in which he ruled—

Justum et tenacem propositi virum  
Non civium ardor prava jubentium,  
Non vultus instantis tyranni  
Mente quatuor solidâ.

\* \* \* \* \*

At his last great speech at the St. Andrews' dinner Lord Dufferin has warned the responsible heads of administrations not to court the "*arbitrium popularis auræ*," and he seems to have felt that the "*instans tyrannus*" of the Congress has shaken many good men from an attitude of moral courage and unswerving loyalty. He has denounced in no measured terms the seditious threats and pamphlets of the "*raucus Codrus*" of the League—a denunciation which we (in common with all loyal subjects of the Queen-Empress) think should be followed by the confiscation of Codrus' pension and his prosecution under section 124 A of the Penal Code. On the eve of his departure Lord Dufferin has struck a much needed blow in the cause of loyalty and good government. Perhaps the only matter for regret is, that the blow was not struck two years ago.

Such is the record of the departing Viceroy: such the acts and measures which await the verdict of public opinion. "The verdict," as Lord Dufferin remarked, "has passed out of my hands, and it will be the pen of the historian that will determine whether my colleagues and myself have succeeded in any adequate degree in contributing to the peace and security of the country, in dissipating some formidable dangers, and in inaugurating such reforms and improvements in its administration as the time and the circumstances of the case either permitted or required."

## ART. XII.—THE PUBLIC SERVICE COMMISSION AND JUDICIAL REFORM.

### I.

IT is not surprising that the labours of the Public Service Commission have hitherto received but scanty recognition at the hands of the public press, and have not as yet sustained the detailed criticism to which they will, no doubt, ultimately be subjected. The report of the Public Service Commission is now nearly a year old, and although a marvellous product of skilled analysis, is still 153 pages in length. It involves a complete re-adjustment of the appointments in all branches of the Public Services, and its recommendations are so numerous and in some respects startling, that neither the press, nor the individuals whose interests are affected, have as yet had time to appreciate the extent and effect of the alterations proposed. It has been laid on the table of both Houses of Parliament without a word of comment from the British Cabinet, and has hitherto been unaccompanied by any published Resolution of the Government of India indicating how far the suggestions of the Commission are approved. The evidence on which the report is based is probably the most voluminous ever collected on any public subject in this country, and together with statistics and tables, is contained in some 20 thick folios. The evidence from the province of Bengal alone occupies 500 double pages of close print, and the written replies of Societies and Associations, including those of such bodies as the Bengal Chamber of Commerce, the British Indian Association and the Mahomedan Literary Society of Calcutta, occupy about 100 pages more. Representatives of all the Services of Bengal, of Municipalities and of Rate-payers' Associations, and private gentlemen of position and influence in considerable numbers, have been examined either by the full Commission or the Subcommittee, and it may fairly be said that not a single interest of Bengal has been entirely ignored, although, as was to be expected from the political tendencies of the day, and the avowed object of the Commission, the more advanced sections of the community have appropriated the greater share of space in the great folio which contains the abstract of the evidence.

The general scope of the the recommendations is, of course, well known, but for the sake of completeness may be here briefly noted. The report of the Commission, in itself a précis

of the views of the majority of the members, has been further epitomized in a summary (page 140), and the results are :—

(1.) That no departure should be allowed from the principle enacted in Section 87, Statute 3 and 4 Will. IV, Chapter 85, or from the policy of Her Majesty's Proclamation of 1858. The words of the Section are as follows :—"No native of the said territories (India), nor any natural born subject of His Majesty resident therein, shall by reason only of his religion, place of birth, descent, colour, or any of them, be disabled from holding any place, office or employment under the said (East India) Company."

(2.) That admission to the Covenanted Civil Service should continue on the system established by Section 32, Statute 21 and 22 Vic., Chapter 106, *i e*, that admission should be solely by competitive examination in London and that it is inexpedient to hold a simultaneous examination in India.

(3.) That the minimum and maximum ages of Native candidates should be 19 and 23 respectively.

(4.) That the Statutory Civil Service should be abolished, and Section 6 of Statute 33 Vic., Chapter 3, be repealed.

(5.) That, in the present circumstances of the country, the claims of Natives of India to higher and more extensive employment in the Public Service, and the admission of competent Natives of each Province of India, to a due proportion of the posts heretofore reserved for the Covenanted Civil Service, can be best provided for by reducing the Covenanted Civil Service to a corps d'élite, by limiting its numbers to what is necessary to fill the chief administrative appointments of the Government, and such a number of the smaller appointments as will ensure a complete course of training for junior Civilians, and by transferring a corresponding number of appointments to a Local Service to be separately recruited in each Province of India."

(6.) That for the term Covenanted Civil Service of India should be substituted the expression "Imperial Civil Service of India"

(7.) That no change in principle should be made in Statute 24 and 25 Vic., Chapter 54, which directs that all vacancies in certain offices shall ordinarily be filled up from amongst the Covenanted Civil Servants of the Crown in India, but that "the number of appointments reserved in the Schedule attached to the Statute 24 and 25 Vic., Chapter 54, should be reduced, and that the schedule recommended in Appendix N. to the report, should be adopted."

Then follow—

(8.) Certain suggestions as to the constitution of the future Civil Service, and provisions for the addition to, or removal of, certain appointments from the schedule.

It is then recommended—

(9.) That Section 3 of the Statute 24 and 25 Vic., Chapter 54 be amended to provide for special appointments "being made on account of exceptional merit and ability proved in the Public Service," and to judicial offices so specified on account of exceptional merit and ability proved in active practice, as a barrister, advocate or pleader of the High Court.

It is further suggested—

(10.) That in filling up the higher appointments which it is now proposed to exclude from the schedule of 1861, regard should be

had to the claims of officers of the Covenanted Civil Service who competed in or before the year 1870

(11.) "That the proportion of judicial and revenue appointments excluded from the schedule attached to the Statute 24 and 25 Vic, Chapter 54, should be gradually amalgamated with the higher appointments in the Executive and Judicial Departments of the present Uncovenanted Service and should be recruited locally."

"That local recruitment should be made separately by the Local Governments of the several Provinces to meet their own special requirements, and that the service so recruited should be called the "Provincial Civil Service."

And—

(12.) that in the various High Courts the number of Judges selected from the Judicial Bench of the Provincial Service or from advocates and pleaders of the High Court, should be increased.

There are many other suggestions which arise more or less from the prime recommendations above summarized, but for the purposes of this article they need not be quoted. There are also various other paragraphs which deal with the saving of vested interests with regard both to the Imperial and the Provincial Service, and on this head the last paragraph of the report may be quoted in its entirety as a significant indication of the difficulty undoubtedly felt by the Commission in reconciling some of their proposals with the rights of the present servants of the Crown.

"These are the recommendations which the Commission has to make for the consideration of the Government of India. They are mainly based on conclusions to which the evidence interpreted by the experience of the several members compels it; and in the desire to follow the guidance of experience, the Commission may in some particulars have exposed itself to a charge of inconsistency. It offers no original scheme; it advises the further application of principles long accepted, and progress on lines indicated by the action of the Government in the past. Considerations of policy and economy alike require, that so far as is consistent with the ends of good government, the recruitment of the official staff in England should be curtailed and advantage taken of qualified agency obtainable in India. The Commission is well aware of the objections that may be urged with more or less force against some of its recommendations and has given them full consideration. But the objections to the alternative plans which were suggested or suggested themselves, seemed to the Commission still more weighty and numerous, while they carried with them infractions of essential principles which the Commission has steadily kept in view, and presented difficulties in detail sufficient to preclude any hope of that reasonable finality which the Commission was directed to aim at. If the recommendations of the Commission fall short of the expectations of those who were sanguine in anticipating larger results, it must remind them how much has been already effected in the gradual extension of the field of employment for natives; and if it appear to other minds that they are on the side of excess, it must be remembered that they leave in the hands of the Government an uncontrolled freedom of selection for the higher offices in



the administration, and that, if accepted, they cannot be completely carried into effect for nearly a generation of official life."

Such are very briefly the proposals of the Public Service Commission. It need scarcely be said that the outcome of their deliberations is obviously a compromise between the various opinions of the members. The skill with which the report has been drawn up may be gathered from the fact, that in a Commission consisting of 15 members, all have agreed upon the main recommendations, and it is only on a minor point, viz. the exclusion of the memberships of the Boards of Revenue from the schedule of appointments reserved for the Covenanted Civil Service, that 6 dissentient members have declined to endorse the views of the majority. Considering therefore the personnel of the Commission and the multiplicity of interests, more or less conflicting, that were represented upon it, the fact that there is practical unanimity in its recommendations is not only surprising in itself, but adds very great weight and authority to the report. On careful examination, however, there is clearly visible an undercurrent of haunting dread lest their proposals should fail to reconcile the claims of educated natives with the rights of the English servants of the Crown and even with the maintenance of British supremacy. The pleas for delay and deliberation in carrying out the more drastic alterations are so thickly scattered throughout the report, that it may well be, the more conservative members in signing it dwelt rather on the reassuring effect of the last paragraph than on the actual letter of the recommendations themselves. Otherwise it is difficult for instance to conceive how the Mahomedan members of the Commission should acquiesce in a report which *inter alia* recommends the abolition of the Statutory Civil Service, a course which in the present state of Mahomedan education will probably effectually debar the élite of Mahomedan society from securing that share of the appointments in the Provincial Service, to which they conceive their position and influence entitle them.

I presume the object of the entire enquiry may be stated thus: It is an effort to discover whether, looking on the one hand to the increase of education and the political spirit among natives of India, and on the other to the importance of preserving a solid backbone of English administration and of conciliating and recognizing the vested interests in the various services, it was feasible to satisfy the claims of natives of India to higher employment on a much more enlarged scale than had hitherto been contemplated. In providing for these claims the Commission have certainly not erred on the side of illiberality. The posts which the Commission propose to remove from the Schedule of appointments reserved for members of the Covenanted Civil Service are 108 in number. These are classified

under 11 heads in page 77 of the Report, and as I propose to deal in the present article only with the recommendations which affect the Judicial Department, I refer here only to clauses 2 and 5 in so far as they affect Bengal. The appointments thus excluded are "one-third of District and Civil and Sessions Judges or Chief Judicial officers of districts," and one-sixth of Joint Magistrates in all provinces. It may be observed that on the Executive side one-tenth only of the Magistrates or Chief Magisterial Officers of districts, including Deputy Commissioners, are excluded from the schedule. The Judicial Branch bears the brunt of the curtailment for the avowed reason, that the highest Judicial offices in the country have been filled by natives with marked ability, and the Subordinate Judiciary has displayed very great aptitude for judicial work, while they have as yet not had sufficient opportunities for displaying qualities fitting them for high executive administration.

Before considering the subject in detail, I may observe at the outset that I cannot see any valid reason for reserving for natives,—at any rate in Bengal—a larger proportion of Judgeships than of Magistracies of districts. I do not understand how the Commission can have come to the conclusion that less opportunity has been afforded to natives for showing capacity and liking for executive charge than for judicial work. Wherever qualified natives have had any option in the matter, they have usually selected the executive line of service. Of the five native members who have entered the Bengal Civil Service by competition, and who have arrived at that stage of their service in which they are entitled to indicate their preference, four have chosen the Executive and one only the Judicial. It is a still more significant fact that of these four, two have already been selected for special appointments (an acting Secretaryship to the Board of Revenue and a Post Master Generalship), which would ordinarily indicate that they have shown more than the average efficiency in executive posts. Among the Statutory Civilians one or two have already been appointed to temporary charge of districts, and even Deputy Magistrates have occasionally held such posts on the occasion of a brief vacancy. So far as preliminary training is concerned, a Deputy Magistrate has far more insight into the entire machinery of a Magistrate's office, and performs a far larger share of duties analogous to those of a District Magistrate, than any other official or non-official possesses or performs of the work of a District and Sessions Judge's office. The extension of unpaid Native agency in an executive direction, such as the control of District Boards and Municipalities, has resulted, whatever its shortcomings at any rate, more successfully than the utilization of the same agency in the judicial line. The failure of the system, for

instance, by which Honorary Magistrates are appointed, is conspicuous not only in Bengal but in other parts of India. The supreme executive charge of most districts in Bengal is not a position which demands any greater energy, decision, or power of controlling subordinates than is required in a District and Sessions Judgeship. The question of fitness for a particular class of work is moreover absolute and not relative. It is a question of employing Native agency more largely than heretofore in all departments for which they are suitable, and if they are capable of filling one-tenth of the Magistracies and Collectorships, it is difficult to see why they should not be assumed to be capable of undertaking one-third. If the principal object be to exclude them from districts in which there are resident non-official Europeans, they might be safely appointed to at least one-third of the districts of Bengal. There can be no doubt that the invidious distinction now drawn will be fruitful in dispute and friction between the two branches of the service. As it is, the anomaly is frequently presented of junior Sessions Judges trying criminal appeals and hearing revisions from the orders of senior Magistrates, but when the question of the legality or illegality of an English Magistrate's decisions or even his executive orders has to be tried, as it obviously will often have to be tried under the present proposals, by a Sessions Judge who is a Native, there can be little doubt that friction will ensue which may, at some time or other, cause a serious explosion. I entirely concur with the following remark \* of Mr. H. J. S. Cotton in his work on "*New India*," assuming, of course, that the premisses are granted "The gradual withdrawal of our interference in Indian affairs should rather be marked by our systematic resignation of executive functions than by the relinquishment of judicial appointments which carry with them the right of appellate and revisional jurisdiction." It should also not be lost sight of, that executive officers are far more amenable to the advice, supervision and correction of superiors as well as to outside criticism, than are judicial officers much of whose work is absolutely final, and who are not in the habit of asking the assistance of their superiors in the conduct of their business.

## II.

The next point to be considered is, whether these recommendations are, or are not consistent with justice to the members of the Covenanted Civil Service who have already embarked on an Indian career. As already noticed the claims of officers who competed in or before 1870 have been considered, but

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\* *New India*, by H. J. S. Cotton, page 77.

with regard to those who entered the service after that date the Commission remark as follows :—

" In the documentary evidence relating to the Punjab will be found a note put in on behalf of junior officers of the Covenanted Civil Service employed in that province, with the object of showing that certain cases, in which Natives have been appointed direct to superior offices, have produced a considerable degree of uncertainty and uneasiness in the minds of Covenanted Civil Servants as to their promotion and prospects. It is urged that these appointments have had the effect of retarding promotion, already slow in the Punjab Commission; that the Statute 33 Vic, cap. 3, "as it stood without the rules, was a dead letter, so far as appointments to be made under it were concerned," and that "to supersede men who have been in the service for periods ranging from seven years to sixteen years under powers allowed to be entirely dormant for nine years, and not brought into actual operation even after that period, is distinctly inequitable and opposed to public policy and morality." On this point the Commission would observe that, although certain appointments of Natives of India to superior posts in the Punjab may have exercised a disturbing influence on the minds of Covenanted Civil Servants employed in that province, such appointments have been extremely few in number, while the power to make them under special circumstances was reserved to the Government as long ago as 1861 (Statute 24 and 25 Vic, Cap. 54, sec 3). As regards appointments generally under the Statutory rules, the Commission cannot see that any valid complaint can be made on the ground that the Statute of 1870 was practically allowed to remain inoperative for some years. That Statute formed the subject of prolonged public discussion in Parliament. On the other hand, the number of appointments thrown open to public competition in England has, for some time past, been adjusted in reference to the fact that a fixed proportion is reserved for natives appointed in India, and Her Majesty's Secretary of State some years ago decided, on memorials presented by certain members of the Bengal Civil Service, that effect must be given to the intentions of Parliament as embodied in the Statute which was as little hostile to the interests of the Covenanted Civil Service "as a due appreciation of conflicting claims could permit." The Commission does not consider that any appreciable injury has been done to the Covenanted Civil Service, either by the very limited extent to which recourse has been had to the power of appointment conferred by the Statute of 1861, or by the operation of the rules framed under the statute of 1870; nor has the Commission received any evidence sufficient to satisfy it that the action which has been taken in this respect has exercised a prejudicial effect either on recruitment for the Covenanted Civil Service in England, or on the efficiency of Covenanted Civil Servants after their appointment to the service of Government."

I venture to consider that this reasoning is not conclusive or even cogent. In the first place the Commission appear to regard the question of the prospects and promotion of the Junior Civil Servants in the light of the history of the past, and to ignore altogether any forecast of the result of the Commission itself. They observe that in 1861 power was reserved to Government to appoint Natives of India to superior

posts, but that these have been very few in number. As a matter of fact, as I gather from an earlier portion of the report, they are only two, *viz.*, one in Bengal (a District Judgeship) and another in Bombay (an acting Sessions Judgeship) and these appointments were ultimately sanctioned by the Secretary of State under the Act of 1870 and not under the former statute. Under the Statute of 1870 (33 Vic cap 3) a limited number of natives have been appointed in all provinces, but these have commenced at the lowest grade. To argue that because the rules, framed under this statute, and the appointment of natives in the lowest grade of the service in accordance with these rules have inflicted no appreciable hardship on the Covenanted Civil Service (a fact however which the Civil Service disputes) scarcely satisfies the conditions of the present question where the premisses are widely different. The recommendations of the Commission are, as already quoted, to absorb one-third of the District Judgeships and one-sixth of the Joint Magistracies, and this not by the growth of seniority among officers originally appointed to the grade of Assistant Magistrates and Collectors, but by Sub-Judges, barristers, and pleaders, and other members of the Provincial Service who will be appointed as it were "per saltum." The argument as to the publicity of the Statute of 1870 is only a presumption as regards individuals. Every one is, no doubt, supposed to know the law, but no one can possibly be expected to foresee the particular mode in which a permissive law will be worked. In the case of a contract between the Secretary of State on the one hand and individual youths who join the Civil Service on the other, it should be shewn that the present construction of the Statute was the one which was adopted by the contracting parties ever since the Statute was passed.\* The Commission admit that the Statute has been practically inoperative for some years, but they will not concede that any legitimate inference can be drawn from this fact. Ordinarily, however, the intentions of Government under a permissive Statute can only be gauged by its actual practice. If it is allowed for so long to remain practically dormant, during the very years in which its success or failure would naturally be a subject of keen interest, and if, as many witnesses depose, the limited number of appointments actually made was not satisfactory, English candidates from the schools and colleges of England might fairly presume that appointments in the future under this particular statute would not be more numerous than heretofore, and would not materially interfere with the due course of promotion. That a distinct standard of promotion to which

\* I have ascertained that in the Hand-book published by the Civil Service Commissioners for the information of candidates in England, there is no mention of Statutory Civilians, and a passed candidate learns of their existence only after his arrival in India.

all competent members of the Civil Service are entitled to attain has been sometimes recognized by the Secretary of State, is abundantly shewn by the action of Government at various times in devising remedies for stagnation in promotion. The recommendations of the Commission, if adopted, will affect promotion to an extent hitherto unknown by the introduction of a novel principle. The Commission altogether omit from their statement of the case the fact, that the analogy of the appointments made under the Statute of 1870 does not apply, the appointments so made having been from the initiatory stage of the service instead of, as now proposed, at a stage ordinarily attained after 12 to 20 years' service.

It may be, although the fact is denied by many of the witnesses, that the number of appointments thrown open to public competition in England has latterly been adjusted with reference to the appointments likely to be made under the Statute, but looking to the mode in which the Statute has hitherto been interpreted, how can this in any way affect the justice or injustice of a recommendation that one-third of the Judgeships and one sixth of the Joint Magistracies should be filled "per saltum" by outsiders? The appointments thus made are, as the Commission have observed, two in number for the whole of India, but singularly enough they dwell on the paucity of the number as indicating no legitimate ground of complaint, but avoid any reference to the recasting of the schedule which they contemplate. Looking then to the experience of the past 18 years, both as to the annual number of appointments made and the stage at which the candidates enter the service, I cannot see that any precedent whatever is derivable from the past working of the Statute of 1870 for the present recommendation of the Commission, or that these recommendations can be carried out without injustice to Civilians now in the country, whether they entered the service before or after 1870. The recommendations now made involve a formidable inroad, based on an entirely novel principle, into the Charter of the Civil Service contained in the schedule attached to the Act of 1861.

The Commission appear to consider however that by gradually amalgamating the appointments excluded from the schedule with the higher appointments in the Executive and Judicial Departments of the present Uncovenanted Service, there will be no sudden dislocation of the existing system of administration, and no injury to the just expectations of officers now in the Covenanted Service. I confess I cannot understand how the proposed scheme, unless its inception is postponed until all the members of the Civil Service now in the country have been absorbed in the higher posts, including those it is intended ultimately to exclude, can fail to disappoint just anticipations of promotion. The Commission recommend that the cadre of

the Civil Service if larger than will be required under the present scheme, (and it obviously is very much larger) should be reduced at the time of future recruitment for the Civil Service. But to carry out the scheme, or even to commence the absorption of the appointments from the schedule, and their inclusion in the Provincial Service before the members of the Civil Servants in the country have been recruited under the new cadre, will certainly involve the evils which the Commission deprecates.

There is another public body who, it appears to me, have some cause for complaint. The Statutory Civil Service has no doubt not proved a success. Although some of the Mahomedan witnesses have, for obvious reasons, justified its maintenance, the English and Bengali witnesses, whether official or non-official, have united in a chorus of condemnation of its constitution, its personnel, and its inadequacy to secure the ends for which it was founded. It may be conceded that the earlier appointments have been unfortunate, but those of later date include some able and efficient public officers. They were admitted under the rules framed in 1879, and these rules were based on an interpretation of the Statute of 33 Vic. which it appears is now out of favour. Whether that interpretation was right or not, the Statutory Civilians admitted after 1879 were led to understand that they were not appointed to posts ordinarily reserved for members of the Civil Service, but were substantially included in the cadre of the Civil Service itself. Some of the members of this service have already risen, in due course of promotions, to officiating Collectorships and Judgeships, and the proposal to remove them *en masse* from the ranks of what will ultimately be the Imperial Service into the somewhat heterogeneous and inferior Provincial Service, is hardly consistent with fairness to the gentlemen concerned. I understand that a memorial has already been submitted to the Secretary of State by one of the Statutory Civilians deprecating this proposal, and the British Indian Association has also addressed a lengthy remonstrance to Government on the same subject.

### III.

The next question is, whether the Judicial Service in Bengal can be maintained in its present state of efficiency by the introduction of the varieties of agency proposed, and the first mode of discussing the point which suggests itself is naturally an examination of the evidence which has been given by witnesses in this province. The Commission have refrained from quoting from evidence, and have merely referred to it as establishing certain conclusions. They have not even, except very rarely, referred to the general complexion of the views held by the various classes of witnesses. No doubt, considering the

voluminous character of the evidence, the extremely opposite tendencies of the witnesses examined, and the diversity of the opinions expressed, it was a convenient and proper course to ignore in the report individual recommendations. But in considering the possibility, consistently with the maintenance of the present standard of judicial merit, of making the changes proposed, it is clear that the present attempt to criticise the scheme would be incomplete and unsatisfactory, unless the evidence of some of the witnesses, who are more especially competent to give an opinion, is discussed in some detail.

It would certainly answer no useful purpose to examine the evidence of witnesses who are clearly not competent. It is only when the Reviewer attempts to wade through the mass of material at his disposal that he can gauge the extreme laboriousness of the task the Commission had to perform. When we bear in mind that not only experts, *i. e.*, witnesses called especially by the Commission to afford information and to suggest amendments on matters with which they have been familiar for a lifetime, but also independent gentlemen of all descriptions and of all nationalities were entitled to a hearing, it is not surprising that many startling and some ludicrous schemes have been placed at the disposal of the Commission, devised in accordance with the social and political views of reformers whose zeal and ingenuity were more conspicuous than their experience and insight.

Apart from the marvellous fertility of resource displayed in the varied schemes suggested to the Commission, the extreme range of political theories propounded is also noteworthy. For instance, one gentleman of high standing and distinguished abilities proposes the absolute restriction of the Covenanted Civil Service to Englishmen, and is quite prepared to so construe the Queen's Proclamation and the Statute of 1833, as to secure this end. As an antithesis to this, a well-known Editor of a Native newspaper, is utterly dissatisfied with the Civil Service as it exists, and observes that "Boy Magistrates in India have become a standing reproach to the administration." He recommends, by way of amending the Queen's Proclamation in another direction, that in all appointments in India, "preference should be shewn to the children of the soil," and would recruit the Uncovenanted Civil Service entirely from Statutory natives of India, eliminating the European element altogether. A prominent representative of liberal opinion in the Civil Service suggests, that in all the advanced districts in advanced provinces, such as Hooghly, Burdwan, Nuddca and the 24-Pargannahs, "there should be a complete abolition of our centralized organization, and the substitution in its place of a body of representative officials chosen in each locality." After this it is



not surprising to find another radical reformer seriously suggesting that the competitive examination in England should be abolished altogether, and all the services recruited from natives in this country. This gentleman is I believe alone in attaching no importance whatever to the training of natives in England.

There is, it may be observed, no subject which has led to more hopeless chaos in the schemes put forward by the various witnesses, than the different views expressed about economy. With the majority the *cheval de bataille* for the large employment of Natives is reduced pay and consequent diminished expenditure in the administration of the country. A large minority, however, make it a *sine quâ non* that Natives, who will occupy the positions now held by European Covenanted Civilians, must draw the same pay in order that their prestige may, not be lowered.

A similar divergence of views is to be found among Mahomedan witnesses. One gentleman altogether deprecates the competitive system for natives, which threatens to swamp the service with candidates from one or two favoured provinces. Even for Englishmen he would supplement the educational test by giving credit for "morale and physique." Another Mahomedan witness would re-introduce the Haileybury system in England, but would maintain the Statutory Civil Service in India, suggesting that Government should nominate for it from among officers of the Uncovenanted Service, and from the members of the Native and English bar of 4 and 2 years standing respectively, in the former case on the recommendation of the senior Government Pleader, and in the latter case of the Advocate General.

The above is a mere skeleton outline of some of the evidence tendered to the Commission, and is by no means meant to reproduce fully the theories even of the individuals alluded to, but merely to indicate the extreme divergence of the views placed before the Commission. I shall now refer in detail only to the evidence of such witnesses as are acknowledged experts on the subject of judicial reform. Among experts, however, there is unhappily, as we shall see, just the same divergence of opinion on capital points as among professed politicians and social reformers.

The classes from among which appointments to the post of District and Sessions Judgeships are recommended to the extent specified are, it will be remembered, barristers, advocates and pleaders of the High Court, and Sub-Judges. The members of the bar, who are eligible for such direct appointments, will be selected "on account of exceptional merit and ability proved in active practice."

Sir Charles Paul, the Advocate General, desires to recruit

the Mofussil Bench from members of the bar, and is of opinion that all the District and Additional District Judges should be taken from advocates and pleaders of the High Court. He further observed that he should find no difficulty in selecting six barristers and six pleaders who would accept the office of District Judge. It turned out, however, that among the advocates not one was earning more than 500 a month, so that if success at the bar be regarded as a proof of "exceptional merit and ability," it would be difficult to characterize any of these gentlemen as eligible. All the advocates except one were of about 12 years' standing, so that it can scarcely be expected that they should possess, even if their practice in Calcutta gave them similar advantages, the same intimate knowledge and experience of the languages and customs of the country as civilians of considerably longer service. Sir Charles Paul further states, that as a rule the knowledge of the rules of evidence possessed by District Judges is indifferent and inaccurate, although he admits that among Civilian Judges there are men of very high attainments. He would abolish all Civilian District Judges, and would restrict the promotion of juniors to the executive line, culminating in Commissionerships and Memberships of the Board of Revenue.

Mr. M. P. Gasper, a barrister in practice in Calcutta and the mofussil, has an equally low opinion of the merits of District Judges as a class. He states that District Judges, not being trained lawyers, are not qualified to perform their duties. "They work slowly, because they are obliged to apply their undoubted talents to the consideration of cases of which they have no experience, and of points of law with which they are not familiar." He would also recruit the District Judges and High Court Judges from among the bar, and by way of clinching the matter, he says "according to the system I advocate, there would not be a Civilian Judge in the country." Such extreme views of the incapacity of English Judges are rarely found in the volume of evidence, but even these opinions are qualified here and there by a high encomium of individual Judges. These two authorities, however, while agreeing in their condemnation of District Judges, are entirely at variance as to some of the qualifications necessary to constitute a good Judge in India. Sir Charles Paul considers that a fair knowledge of the revenue regulations and the administrative system of the country is highly advantageous; Mr. Gasper on the other hand considers that familiarity with the revenue and executive administration of the country is unnecessary and even mischievous in a Judge.

The evidence of Babu Mohendra Nath Bose, a Judge of the Small Cause Court and one of the senior members of the

Subordinate Judicial Service, is interesting as throwing a perfectly new light on the question. He would not give any appointment to members of the Native bar (especially in the mofussil) after they have attained the age of 25 years, on the ground that long practice at the bar in the case of native gentlemen unfits them for the duties of a Judge. In the course of a somewhat long cross examination\* on this apparently novel view, Babu Mohendra Nath Bose explained himself by intimating, that the members of the Mofussil bar in good practice would refuse appointments if offered to them, and that the others have to shift as best they can for a scanty subsistence; and as they are unable "honestly to make two ends meet, there is no knowing how far they will not go in the other direction." Further on he states that he does not think a pleader, who has been 10 years at the bar with little or nothing to do, is likely to make an efficient Judge. The most striking of the opinions expressed by Babu Mohendra Nath Bose is, however, that no pleader in the mofussil with a practice of from Rs. 400 to 600, would accept a Munsifship even with the prospect of promotion to a District Judgeship.

I cannot conceive the probability of Government acting upon the recommendations to appoint barristers and pleaders direct to District Judgeships. Very few of the witnesses have been asked what class of barristers and advocates would accept such appointments, but the testimony of Sir Charles Paul, given after personal inquiry from the members of the Calcutta bar, is conclusive that none but men who had failed to secure even a tolerable income in Calcutta, would be attracted by a District Judgeship. It cannot be supposed that Government would consider the efficiency of the judicial service improved, or even maintained, by the appointment of barristers or advocates of 8 to 12 years' standing, whose only qualification for the post is legal training devoid of extensive practice, who have had no familiarity with the working and control of offices or with the complicated machinery for the disposal of a mass of judicial work by numerous subordinate officers. In addition to the grave disqualifications involved in lack of experience in such matters, there is also, in the majority of cases, ignorance of the languages of the country, and a somewhat rudimentary acquaintance with native customs and prejudices.\* Apart from a lack of

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\* These disadvantages are, one would have supposed so generally admitted, that I should not have thought it necessary to lay stress upon them, were it not that one of the Native witnesses examined stated that a "barrister has as much opportunity of learning the language and the manners and habits of thought of the people as a Civilian has, probably more." The next answer qualifies this remarkable assertion. He adds 'if he is a European, he may have practised in the Mofussil or on the Appellate side

general experience in administration, it is difficult to see how an advocate of the Calcutta bar, ignorant of the vernacular of either province, is to charge jurors and assessors, understand the arguments of pleaders not versed in English, of whom a modicum still remain in most districts, and conduct the business of the vernacular portion of the office. It would be equally impossible for him to personally inspect the greater part of the routine work of his offices. Such an officer, however well trained in legal maxims and practical experience of the laws of evidence, must be entirely in the hands of the English knowing portion of the office subordinates. The witnesses who advocate the appointment of English barristers, and who make light of his inexperience in office routine, are naturally those who have the least knowledge as to the scope and extent of a District Judge's miscellaneous duties. Imagine the case of an English barrister who had to decide as to the truth of complaints made against the competency of a Civil Court Amin, and who had to test his industry and ability by a careful comparison of his vernacular diaries with the map of the locality and the field book, also in all probability in the vernacular. Can it be doubted that the ultimate decision in all such matters would rest with the English-knowing "Serishtadar" or head clerk even if he had passed the vernacular examination contemplated by the Commission?\*

Apart from all these considerations, there is the question—What political or administrative benefit is gained by substituting one class of Englishmen for another in judicial posts which the Covenanted Civil Servants are at present entitled to regard as the legitimate reward of long and arduous work in the lower branches of the service? Experience in England shows that the coveted positions of Puisne Judges are accepted by success-

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of the Court and in that case he will know almost as much of the country and the people as a man who has spent his whole life in the Mofussil. An assertion so strange in itself, so soon qualified and transposed from a direct to a hypothetical proposition will hardly command general assent.

\* No doubt a certificate of having passed an examination in one of the vernacular languages of the province in which he is to be employed, is insisted upon before an English candidate is considered eligible, but the standard contemplated, which is apparently something similar to the degree of efficiency in the native languages required from Covenanted Civilians before they leave England, can hardly replace the habitual practical familiarity for 10 to 20 years, which is possessed by Civil Judges. No book examination, however carefully conducted, can really test the capacity of a candidate to conduct ordinary business in the vernacular languages. It is, moreover, hardly likely that the test to be imposed on English barristers would in practice be a very severe one. It is described in one place (see page 81 of the report) as "such a knowledge of the vernacular language as is required on the part of other persons before first appointment to the Provincial Service."

ful barristers at a considerable loss of professional income. In this country, on the other hand, the position of District and Sessions Judge will only be accepted by barristers who would gain and not lose in income by exchanging a small and precarious livelihood at the bar for a larger and more certain salary as a Judge. Why then should the salutary practice in England be reversed in this country, where there is no political end to be gained thereby, and where the legitimate aspirations of the natives for higher employment, to give effect to which the Commission was appointed, will be hindered rather than furthered by this branch of their recommendations?

With regard to natives, of course, these arguments do not apply in their entirety. Here both administrative and political consideration enter into the question. But it is hardly intended in order to show our confidence in the aptitude of educated natives for legal work, that we shall appoint a class who may have attained a certain technical professional standard, whether in other respects they are fit or not for the complex duties of a Judgeship. It appears to me from the evidence, that it will be just as difficult to get native barristers, who satisfy the conditions, to accept District and Sessions Judgeships, as to obtain English advocates. Sir Comer Petheram observes that the best practitioners of the native bar would scarcely be induced to accept a High Court Judgeship, and the offer of a District Judgeship on Rs. 2,000 a month would probably be rejected by the majority. All the disadvantages of inexperience in administration which would attach to English barristers attach equally to native pleaders. But assuming that eminent native members of the High Court bar would not accept such a post, where is Government to find its candidates?

#### IV.

The strongest argument, however, against the appointment of native barristers or pleaders direct to the Mofussil District Bench, is that such a course would involve a great and undeserved slur on one of the ablest bodies of judicial officers ever known—the Subordinate Judges of Bengal. Originally appointed as Mooniffs from the Mofussil bar at a time when the prospects of promotion were better and Government service more appreciated, many of them gave up a considerable practice to take their seats on the Bench. There can be little doubt that several of these gentlemen, had they remained in the exercise of their profession, would be now in receipt of a large income as leaders in Mofussil Courts. Amid the infinite variety in the evidence of the witnesses, there is no point on which the testimony is more practically unanimous than in the tribute that

has been paid to the industry, ability and conscientiousness of the Subordinate Judges. It can hardly be supposed that if any native is to be raised out of the ordinary course to a District Judgeship the claims of the Sub-Judges would be superseded by the appointment of pleaders of no whit better legal ability, with no office experience, and without the claim to promotion which many years of hard, and often inadequately appreciated, labour in Government service confer.

The next question then is, whether the Sub-Judges are, as a body, eligible for promotion to the District Bench. It is necessary at this stage of the enquiry, again to consult the evidence of experts, and among them none can command so much respect and authority as the opinions of the Chief Justice and two Puisne Judges of the High Court of Calcutta. Commencing with the evidence of the Hon'ble Sir W. Comer Petheram, I place in a narrative form his answers to questions regarding the relative efficiency of District Judges and Sub-Judges. He says:—

District Judges as a class do their criminal work very well, and as a general rule the sessions trials are conducted with very great care. The Criminal Appellate work is also efficiently performed, and with reference to their civil work, they are very efficient indeed, as far as the class of cases is concerned for which their training qualifies them. But I think that when they come to deal with complicated masses of fact, their training has not been of the kind to enable them to deal powerfully with that class of case. I doubt whether, at the present, Sub-Judges, if they were appointed to that position, would have sufficient weight and authority to efficiently control and inspect the Courts subordinate to them. I am not prepared to say I should like to see Sub-Judges appointed to the High Court, but Sub-Judges deal more powerfully with complicated matters of fact than District Judges."

The following is extracted from the evidence of the Hon'ble H. T. Prinsep, a Judge of the High Court of Calcutta:—

"I think the present number of Native District Judges might be increased but not to any large extent. I should say not more than one sixth of the District Judges of Bengal would properly and advantageously be filled by natives. In respect to Sub-Judges as a class I am not satisfied that they do possess sufficient qualifications to have administrative charge of a District. I think in their judicial work, the members of the Covenanted Civil Service labour under very great disadvantages, owing to the system under which they are appointed, but notwithstanding that, I think that taking the average, their work is considerably superior to that of Sub Judges, who have had the advantage of several years' previous service as Civil Judge, and a special legal education sufficient to obtain the University Degree of B.L. I should say about half of the present District Judges have fair reason to expect promotion to the High Court. Very nearly all are fairly efficient, perhaps there are 2 or 3 who, I should say, are not efficient.

Personally I would not appoint a Sub-Judge to the High Court until he had served in a District Court. There are not more than two or three Sub Judges, if so many, who are fit to be made District Judges at the present.

The Hon'ble Chunder Madhub Ghose, a Judge of the High Court of Calcutta, makes the following statement :—

It is desirable to have among the High Court Judges some gentlemen possessing a knowledge of the executive administration of the country. I do not think the Subordinate Judiciary as at present recruited, would do so well as Covenanted Civilians for Sessions Judgeships ; they have had no training : I am not prepared to give a decided opinion as to whether District Judges are able to deal with cases involving intricate masses of fact better or worse than Sub-Judges ; there are some Judges in the Civil Service who are very good judges of facts . In a matter like this it is very difficult to compare class with class. I think there are some Sub Judges in Bengal who would do well as District Judges,—not many.

Finally as regards the relative efficiency of Sub-Judges and District Judges, the opinion of the Advocate General may be again quoted. Notwithstanding his wish to abolish Civilian Judges, he says that “ when the decision of a case demands the exercise of high moral and mental culture on the part of the Judge, and when complicated questions of fact are involved, the Civilian Judge deals much better with them than Sub-Judges, on the ground that the Covenanted Judge is a man of better education and more extensive reading.” On the other hand the same authority observes that when District Judges differ from their subordinates in points of law, they are generally in error. The Sub-Judge is more familiar with the Regulations and Acts and decided cases from constant practice than the District Judge, and as a rule decides points of law better than the latter. He says, finally, that neither District Judges nor Sub-Judges are competent to deal with civil cases in an efficient and satisfactory manner, because they are not acquainted with the broad principles of law and equity.

It will be observed, therefore, that the opinions of the highest authorities vary so completely on the question of the relative efficiency of District and Sub-Judges in civil work, that it is impossible to accept any particular conclusions as being established by their evidence. Upon the whole, perhaps, and taking into consideration other evidence which it is unnecessary to quote at length, the balance may be said to incline as regards purely civil work in favor of Sub-Judges.

There is, however, another criterion, which although not in all respects satisfactory, may be accepted as some guide when the opinions of experts differ so widely, and this is derived from the statements prepared in the High Court of the result of appeals from original decrees, appellate decrees, and orders passed by District Judges and Sub-Judges respectively. The percentage of decrees approved, reversed, varied, and remanded in each case presents such curious uniformity, that it is scarcely possible from this standard to draw any distinction as to the

relative correctness and legality of the decisions of District Judges and Sub-Judges.\* It must however, be borne in mind that a Sub-Judge works on entirely different lines from those of a District Judge. The former is occupied incessantly in protracted original suits. He devotes to each of them long hours and days of patient and assiduous labour. He is liable to no interruptions from the pressure of other business, and his mind is not disturbed from its judicial equanimity by the multifarious business which occupies his superior. The original work done by District Judges is, as a rule, simpler in character, but he performs it with twice the rapidity of the Sub-Judge. Instead, however, of continuous sittings *de die in diem*, which allow the mind to concentrate its utmost powers on the particular suit which is *sub judice*, he is liable to numerous distractions connected with his criminal work, his correspondence, his miscellaneous office work, and the applications which are made to him in his executive capacity. From all these distractions the Sub-Judge is free, and it is not surprising if the original work of

\* The following are the actual figures for the years 1884 and 1885.

*Result of appeals in the High Court during the year 1884.*

		AFFIRMED		REVERSED		VARIED		REMANDED	
		Number.	Percentage	Number.	Percentage	Number.	Percentage	Number.	Percentage
Appeals from original decrees	District Judge	57	55.55	18	18.18	4	40.4	4	40.4
	Subordinate Judge	124	54.12	42	18.54	30	13.27	8	3.54
Appeals from appellate decrees	District Judge	664	76.85	45	5.40	13	1.56	77	8.44
	Subordinate Judge	1010	78.05	07	7.3	27	2.1	118	12.8
Appeals from orders	District Judge	145	63.31	18	17.11	6	2.7	11	11.8
	Subordinate Judge	111	68.51	22	13.8	3	1.85	15	9.25

*Result of appeals in the High Court during the year 1885.*

		AFFIRMED		REVERSED		VARIED		REMANDED	
		Number.	Percentage	Number	Percentage	Number.	Percentage.	Number.	Percentage.
Appeals from original decrees.	District Judge ..	67	55.37	22	18.8	8	6.6	10	8.26
	Subordinate Judge ..	145	53.91	43	15.8	37	13.75	11	4.18
Appeals from appellate decrees.	District Judge ..	1230	65.72	76	4.05	36	1.92	292	15.19
	Subordinate Judge ..	203	80.74	127	5.09	56	2.24	220	8.84
Appeals from orders	District Judge ..	128	63.68	30	14.92	9	4.47	31	16.44
	Subordinate Judge ..	135	72.58	16	8.60	6	3.22	33	12.36



the District Judge occasionally betrays signs of haste and inaccuracy, which would be absent if the atmosphere in which he moved had the serenity which characterizes the uninterrupted performance of one task until it is completed.

But assuming that, in the quality of their purely judicial Civil work, the Sub-Judges are fully competent to become District Judges, the problem is by no means at an end. A District Judge is not only the head Civil authority in the district, but also its administrator for judicial purposes, and above all the principal Criminal functionary of the district. Whatever anomaly is apparent in the supervision of Civil work by a District Judge, who has hitherto had little or no experience in that line, would be reproduced in a still more startling light by the exercise of the supreme criminal administration of the district on the part of an officer who has never tried a Criminal case in his life, bearing in mind that Civil Appellate is not, whereas Criminal Appellate work is, final. Criminal work is not the department of public business for which native capacity is most suited. Here and there the anomalous judgments and extreme or inadequate sentences on criminals which come before a Sessions Judge from the Sub-Executive branch of the service, appear inconsistent with common sense, and almost incompatible with the exercise of judicial honesty of purpose. These flaws are as common in the decisions of members of the senior as in those of the junior branches of the service. I do not think that all Native Judges have completely emancipated themselves from inherited instincts and prejudices as regards the classification and relative heinousness of crime which characterized the India of the past, the India of the Brahminical supremacy, and the hierarchy of caste. The power to apportion the proper amount of punishment in the case of convicted prisoners, which is I think the distinguishing merit of English Judges, is one that comes only of constant practice strengthening the judicial instinct, and of the impartiality of mind attained by a foreigner, who has made it his business for long years to observe and understand the customs and peculiarities of native character, and who recognizes and gives effect to them without being dominated by them. I do not look upon this capacity if it exists, as the opinions of experts would lead us to believe it does exist for criminal work on the part of the judicial branch of the Civil Service, as being especially creditable to them, but rather as the necessary and legitimate outcome of the conditions under which they work. On the other hand, notwithstanding the spread of education and the advanced political creeds of the present day, the Deputy Magistrate does not always show himself free from the bias of religious belief and social prejudice.

For the correction of such errors as spring either from ignorance of the rudimentary principles of criminal law, from a want of discrimination in the weighing of evidence, from unfairness arising from religious bias, generally, I am sure, unconsciously acting on the judgment, and lastly from the oppressive and even outrageous sentences sometimes imposed for trifling offences, the public at present look to the Sessions Judge. It must be borne in mind that the Sessions Judge is the ultimate authority in Criminal appeals, and I therefore consider his criminal appellate work as by far the most important of all the functions which he performs, for a failure of justice here denotes an irremediable misfortune. Much of this work has to be done without the aid of the bar, the prisoner being too poor to afford the assistance of pleaders.

If then the recommendations of the Commission are ultimately sanctioned by the Secretary of State, there can be no doubt that much latitude will be left to the Government of India as to the mode in which the experiment shall be tried; and I think before Sub-Judges are appointed to the full control of a district, selected officers should be tentatively vested with the powers of an Assistant Sessions Judge. This should, in my opinion, be the first step taken in their noviciate into criminal work. Then decisions as a Court of Sessions will always be subject to the revision of a higher and more experienced tribunal and they will perform their functions with the help of competent pleaders.

As the correctness of the views I have expressed above may be doubted by the more advanced advocates for native employment, whether they be Europeans or natives, it is only reasonable that I should give some definite examples or illustrations, or at any rate that I should specify, in a more determinate way, the kind and degree of failure of justice attributable to the lack of judicial instinct in the Native Magistrate. This is the more desirable as I have noticed in the pages of the evidence recorded by the Public Service Commission, many instances where opinions of similar complexion have been put forward by witnesses but when very naturally and properly asked for individual cases, they have, as a rule, professed their inability to recollect them.

To take then one of the commonest of all offences tried by Deputy Magistrates, *viz*, theft from a house or from the person, I have repeatedly noticed instances where a simple theft, if coupled with a previous conviction, has been punished with the maximum term of imprisonment, even where the previous conviction occurred eight or ten years before. Here the object of the section which provides for enhanced punishment for repeated offences is lost sight of, the intention being to

deter individuals from a tendency to 'become habitual' criminals or to embark in crime as a means of livelihood. Deputy Magistrates act very frequently rather on the letter than the spirit of the provision, believing apparently that an act of dishonesty repeated perhaps after a long interval of blameless conduct, should be necessarily visited with very heavy punishment.

Again, in simple theft, unaccompanied by circumstances of aggravation, I have known a well known principle of penal law utterly mis-applied. It is no doubt the case that a crime if prevalent in a locality, should be treated with greater severity than when its occurrence takes place at normal intervals. But there must be discrimination in such cases, and the measure of the sentence would probably be the resultant between various forces, *eg* the gravity or lightness of the offence and its rarity or prevalence in the locality. The judgment which can properly discriminate between these conflicting forces clearly goes astray when a boy is sentenced on a first conviction for the offence of stealing some pieces of firewood valued at a few annas from a wood depot, to 2 years rigorous imprisonment and a fine of Rs. 50, or in default to 6 months further imprisonment. I mention this particular case because I have had before me a large number of appeals, in which the same Deputy Magistrate, an officer of very high standing in the Service, imposed a similar sentence in convictions on the same facts.

On the other hand the tendency of the Native Magistrate is to treat offences against public justice far too leniently. In a district with which I was lately connected, I found that the inefficiency of the *Nizamat*\* Department with regard to the execution of decrees for money was a grave scandal to the administration of Civil justice. It is not too much to say that this branch of the judicial machinery was brought into almost open contempt. The attempts to realize a debt by the attachment of movables became hopelessly futile, and it was the rule rather than the exception for judgment-debtors of any standing or influence, assisted by their connexions or servants, to defy the efforts of the Civil Court peons to attach their property. The presence of the head of the process department was not always sufficient to check these outrages of the law, and cases repeatedly occurred, where, notwithstanding the aid of the police, the process servers and the agents of the decree-holders were beaten and maltreated. The reason for this deplorable state of things will be clear, when I mention that the Deputy Magistrates before whom prosecutions for resistance to public

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\* English readers will understand that this is the Department which deals, *inter alia* with the enforcement of decrees under the Superintendence of a Head Officer called a *Nasir*.

servants in the execution of their duty were instituted, were in the habit of punishing judgment-debtors and their abettors on conviction with a fine of from Rs. 5 to 10. Offences against public justice are, in all civilized countries, severely punished, although, as is apparent from returns lately submitted to the House of Commons, they are treated with much less severity in England than under the Continental Codes; but if such occurrences as I have described were possible in England at all, it need hardly be said that exemplary sentences would be passed, and the public would very soon demand the removal of any Magistrate who treated them as peccadillos. But the kind of public opinion which assists Government in the administration of justice is scarcely existent at present in Bengal.

The ludicrously perverse sentences to which I have alluded were not passed by one only, but by many of the Native Deputy Magistrates in the district in question, and not at one particular time but for a considerable period. It was pointed out to the Deputy Magistrates that if the realization of a debt (say) of Rs. 200 could be successfully resisted at the cost of the imposition of a fine of Rs. 5 or 10, a distinct premium was held out to lawlessness, for the respite obtained by obstruction until the slow machinery of the law could again be brought to bear on the defiant debtors, is cheaply purchased at so small a cost. The explanation, however, which was given in at least one instance, is in itself significant of the lack of logical and coherent reasoning which is occasionally met with among the native judiciary. The reason assigned for the inadequate sentences was, that the Civil Court peons were a class of Government servants of inferior position and education, and that their honesty and veracity could not be depended upon.

But the most remarkable illustrations of what an eminent French critic describes as the "*jugement saugrenu*" in criminal trials are derived from those cases where women are concerned. Many of the provisions of the Penal Code in connexion with offences against women are in real, if unavowed conflict with the instincts of the people, and Deputy Magistrates who I am sure conscientiously endeavour to carry them out, do so with the disadvantage of not thoroughly understanding or appreciating their spirit. There are no more salutary or efficacious provisions in the Penal Code than those devised to punish the hiring or procuring of female minors for the purpose of prostitution. But what will the Indian public think of the following case lately tried by an experienced Deputy Magistrate in executive and judicial charge of an important subdivision? A woman of immoral character, who had been reduced to a state of destitution by illness, had an illegitimate female child some 6 months old whom

she was unable to support. In order that the child might be saved from penury and even starvation, she executed a contract by which she pledged herself to make over her child in perpetuity, to be brought up and supported by two other prostitutes, a mother and daughter, the latter of whom was only eleven years old. There was a clause at the foot of the contract by which the mother bound herself to forego all future claims to any earnings the child might ultimately secure by any means whatever. It will be observed that although the last clause hints, if somewhat obscurely, that the destination of the child would be that of a prostitute, there can hardly be a case in which, if any offence be considered to have been established, a light sentence was more clearly indicated. The status of all the parties was the same; the probable destination of the child, by being handed over from one unfortunate woman to another, was in no way changed; the age of the infant and the terms of the instrument shewed clearly that the main intention of the parties was to provide for the child's support, and finally there was nothing in the document which precluded the girl's ultimate marriage or employment in some honest occupation. The sentence however, upon all the parties concerned including the child of eleven years old, was two years rigorous imprisonment and a heavy fine, in default, six months further imprisonment.

In that numerous class of cases where the villagers combine to punish a suspected adulterous intrigue by a false charge of theft, the prepossessions and instincts of the Bengali householder, especially strong in an Eastern country where the *jus mariti* is so powerful, and there are so many reasons for dealing severely with licentious offenders against the honour of the family, are frequently at variance with the laws of evidence. The whole of the witnesses in such cases probably depose to the capture of the sdi-disant thief with the stolen household utensils in a bundle under his arm. The sagacity of the Deputy Magistrate, aided by the inconsistencies in the evidence, generally bring him to a right conclusion as regards the falsity of the charge of theft; but it frequently happens that although the intrigue is strenuously denied by every one concerned, the Magistrate convicts of house trespass on the supposition or inference that an attempt to violate the matrimonial peace of the family had been made. It might be suggested that in such cases, waiving the question of the legality of the trial and conviction, a certain kind of rude justice is thus accomplished, but it must not be forgotten that the culprit has been found guilty of a crime he has neither been charged with, nor (a more important disadvantage) has had any opportunity to rebut.

I mention these instances of the "*jugement sangrene*," not as typical specimens of trials conducted by native Deputy Magistrates, or as indicating that I think badly on the whole of their capacity for criminal judicial business. On the contrary, I am convinced that their average intelligence is considerable, and that most of them turn out a large proportion of honest, able and conscientious work. But they shew the class of cases in which mischief is constantly liable to occur—irreparable mischief—unless their judgments are subject to the supervision of an officer of experience, and above all, who has a competent acquaintance with the European system of jurisprudence. The sensitive moral perception combined with long experience in criminal matters, which I venture to think makes Civilian Judges efficient in criminal supervision, is at present the only safeguard which the natives of the country possess for the prevention and rectification of errors like those I have pointed out, which spring usually from honest ignorance or incapacity to apply a proper gauge to the punishment of crime. I do not for a moment compare the mental capacity or knowledge of law possessed by Deputy Magistrates with that of Sub-Judges, but is it fair to the people of this country that a class of officials, however able in their own line, should be without preliminary training vested with the sole, final, appellate authority in a district, or that the vital interests of a section of the community should be imperilled by an experiment of so hazardous a nature? One of the most binding debts which as a Government we owe to the nation at large, as distinguished from the small proportion of the population who would appreciate the new régime, is that the criminal administration should be the best that can be devised; and no other consideration should be allowed to override the paramount importance of retaining tribunals which shall thoroughly enjoy the confidence of the country.

But it is with applications for criminal revision that Subordinate Judges would be at present most incompetent to deal. The cases which come before the Court under its revisional jurisdiction are precisely those in which experience of the criminal law and tact are most requisite. They are the kind of cases in which the pressure of the executive on Deputy Magistrates is occasionally exercised. The delicate questions involved in a trial after a declaration by a Magistrate of the District of a certain road being public, which is claimed as private, are of this category. The responsibility of the Magistrate for the peace of his district has frequently to be reconciled with the rights of individuals, and the attempts of rival landholders to secure some sort of recognition of a disputed title,

by invoking the assistance of the magistracy to place one or other in possession, often involve a decision by the Sessions Judge which is not palatable to the executive authorities. The possibilities of friction between the rival heads of the district would, it appears to me, be greatly increased by generally vesting Sub-Judges with these powers. Their inexperience must inevitably detract from the authority and respect due to their decisions.

But there is another department of a Judge's work which has yet to be considered, and this is what has been described by Sir Comer Petheram as the most important next to his criminal work. The question is then finally, whether Sub-Judges at present possess the weight, authority, and experience for efficient supervision of the subordinate offices of the Civil Courts. As regards their capacity for actual inspection of records and scrutiny of statements, I believe they are equal or superior to District Judges. But it is perhaps scarcely understood, and certainly has not been sufficiently elicited in the evidence, that the executive and administrative authority of a District Judge is very large, and that a strong, firm, and energetic administration is quite as necessary in a judgeship as in a magistracy. The subordinate judiciary, although they cope successfully with the heavy and generally oppressive mass of judicial business which falls to their lot, are not so fitted by education and training for dealing with the quasi-executive work which is incidental to their position. Cases frequently occur where witnesses have to be prosecuted for perjury and fabrication of false evidence ; cases where the stamp laws are violated, and where the defence discloses patent and avowed fraud on creditors, which bring the defendant within the scope of the criminal law. Vigour and prompt action are required to deal with emergencies of this kind, and here Munsiffs are sometimes lacking. The Civil Courts abound with opportunities for speculation and dishonesty among the subordinate officials, and, especially in the department connected with the execution of decrees. Here, also, complaints constantly crop up which are hardly dealt with by the Munsiff with the stringency which the case demands. The complaints of the public though seldom heard,—for abuses must be very flagrant indeed before the Bengali suitor is aroused,—are not sufficiently inquired into, and when a subordinate has been detected in something approaching to fraud, inadequate punishments are often imposed from the mistaken leniency towards subordinates, which though an amiable weakness, is too characteristic of Bengali officials. Notwithstanding the progress of education, the influence of the Amlah class is still enormous. A Serishtadar, or even the clerk in the influential position of head of the execution department, enjoys

practical immunity from denunciation for malpractices because of the power he wields among all classes connected with the Court business. If a more than ordinarily courageous suitor who has been victimized makes a charge against him, the calumniated officer is generally supported by the entire native bar, and his assailant has practically to carry on the unequal contest single-handed. I find from a native paper\* that the complainant in a libel case against the editor of the "Shom Prokash" newspaper being a nephew of the Serishtadar, the entire body of local pleaders declined to appear for the defence; and illustrations of the same kind of combination, so out of harmony with the best traditions of the bar, have repeatedly occurred in my own experience. Unless the Munsiff or Sub-Judge is an exceptionally strong man, or is secure of the countenance of a European superior, criminal charges, against officers of the Court, however true they may be, generally break down.

A Munsiff in a remote village, where independent society of equal rank is not available, must of necessity associate, for the sake of companionship, with the pleaders of his Court, and even with his own subordinates. Intimacies are often, as it were, forced upon him which, without blame to himself, detract from the authority and independence which he ought to possess in matters of discipline as regards the bar and the employes of his own office. It frequently becomes necessary to transfer subordinates who have thus become too strong for their superior, and occasionally to recommend the transfer of the Munsiff himself. Then, again, a firm hand and much tact are often necessary in settling, sometimes in consultation with the District Magistrate, disputes which arise between the Munsiff and the Subdivisional Deputy Magistrate. Friction arising from jealousy between these functionaries is occasionally productive of serious mischief to the administration. The scandalous sentences imposed on persons found guilty of obstructing the processes of the Civil Courts referred to earlier, were distinctly traceable to this source.

Numerous inquiries were made by the members of the Commission from the various witnesses as to the preference or otherwise of native suitors for tribunals presided over by Europeans, and the replies made were, in my opinion, not altogether satisfactory, for the witnesses who stated the affirmative of the proposition were either unable or unwilling to give any specific instances. It appears to me that so far as this reluctance to give concrete examples proceeded from a sense of the invidiousness of indicating such cases—the feeling is altogether erroneous. Applications for the transfer of cases, especially of a civil nature, from

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\* *The East*, November 17th, 1888.



the file of a Native to that of a European are common enough, and are generally founded on the fact, that when, as is often the case, the society of a small place is broken up into groups headed by influential residents the local officer, unless he debars himself from society altogether, is sure to have unconsciously identified himself in the eyes of the public with one of these parties rather than the other. His impartiality may be undoubted, but owing, perhaps, to an intimacy with one of the principal partisans, dating it may be from a period before litigation arose, his decision however just, could not be completely satisfactory. In recent years especially, since the introduction of the native régime into Municipalities, the normal incidents of party faction in Bengal towns have become greatly intensified and embittered by the introduction of parochial politics, and the enmity thus aroused sometimes spreads over an incredibly large area, and sinks deeply into the very heart of the native community. In the suits, civil and criminal, which are the unhappy outcome of this state of things, the existence of an absolutely impartial tribunal presided over by a European is a necessity. It is not that a Native District Judge might not be perfectly just, but his justice would never be acknowledged by the defeated party, for the simple reason that he does not, like the European, live in a sphere which is practically segregated from contact either with the tattle of the bazaar or the gossip of the local magnates. This isolation from the turbid currents of local partisanship appears to me to be, although unsought, and therefore in no way especially to his credit; one of the most useful characteristics of the European Judge.

In order that there may be no possibility of doubt that such applications for transfer are made, and as indicating the nature of the social or religious difficulties which call for the interference of the European, I mention the following which have all occurred within the last year. In one of these cases a wealthy native banker brought a suit for breach of contract against a theatrical company for non-performance of an entertainment on the night for which they were engaged, the defence being a prior contract with the principal Zemindar resident in the station. The latter naturally supported the company in their defence, but so keen and widespread was the feeling on one side or the other, including all or nearly all the native officials in the town, that the Subordinate Judge himself as well as the parties proposed that the case should be tried by the District Judge. In another case where an intricate question of the Mahomedan law of marriage was concerned, the parties being wealthy and influential, which had been decided by a Mahomedan Munsiff, both parties applied for the transfer

of the appeal from the file of a Hindu Sub-Judge to that of the District Judge ; and in a third case where a Hindu convert to Mahomedanism sued for restitution of conjugal rights and the suit was pending in a Munsiff's Court, application was made for its transfer to the court of the District Judge on the ground that public feeling was so keenly aroused, that there was likelihood of the witnesses being terrorized, and that the Munsiff a Hindu, was naturally prepossessed against the plaintiff.

## V.

Turning now to a different branch of judicial reform, and one which may be considered quite apart from any question of nationality, we come to the question of the propriety of the present mode of recruitment of Munsiffs. As regards the general ability of the Munsiffs as a class, there is practical unanimity among the skilled witnesses, and it is far from my object to sound a discordant note amid the general chorus of praise. But it is admitted on all hands and is, indeed, a matter of common experience, that there are wide differences in the capacity of Munsiffs recruited under the present system. I am surprised to find from the remarks of Sir Charles Turner, that in Malhas pleaders in the receipt of a professional income of Rs. 400 to 600, a month are frequently candidates for the Subordinate Judicial Service. In Bengal it is unquestionably rare to find a pleader in the receipt of even Rs. 200 or 300 a month, who will sacrifice his prospects for the drudgery of the bench, tempered though it be by security of income and pension for declining years. There are many reasons for this. I have long ago pointed out that if it is desired to attract abler men into the Judicial Service, it is necessary to allow the candidates to forego short acting appointments at remote and unpopular stations without prejudice to their ultimate absorption in the permanent grade. It is the year or two of noviciate before they obtain a lasting appointment, which frightens away many able and promising candidates. They do not care to face a more or less protracted interval of uncertainty, penury and discomfort, their practice at the bar ruined, and their families scattered, and the fitful allowances drawn from Government quite insufficient for their support.

The mode in which Munsiffs are selected is certainly capable of improvement. At present a pleader who has obtained the degree of B L. at the University, and who proposes to adopt a judicial career, has only to attach himself nominally to one of the District Courts, and he will be qualified after three years so-called practice to obtain a certificate from the District Judge. Armed with this certificate and his University diploma, he is entitled, I believe as a matter of right, to have his

name placed upon a list of candidates retained in the High Court, and appointments to Munsiffships are usually made strictly by seniority in accordance with this list. As observed on an earlier page, the most efficient men at the bar do not apply for such employment. At the same time the number of applicants in each district is sufficiently large to allow of very wide intervals in the relative abilities of the candidates. It is also a fact that the combined list of candidates for Munsiffships kept in the High Court is a long one, and as the bar is very popular and is becoming more and more overcrowded, the number of the pleaders, including many able and well informed men who are unable to secure adequate practice at the bar, and who desire to obtain Munsiffships, is likely to increase. As it is, candidates whose names are registered do not obtain permanent employment for many years. The only authorities who possess adequate opportunities for deciding whether a particular candidate is suitable for employment in the Subordinate Judicial Service, are the Judges before whom he practices. I would suggest, therefore, that the list of registered candidates for each District be revised annually by the High Court in accordance with the information they derive from the report of a local Committee consisting of the District Judge and the Sub-Judges of the district. It seems to me clear that when the list of candidates is so large as to afford ample opportunity for selection, the public have a right to expect that only the best of the candidates shall be appointed. I think a report should also be submitted of those candidates who are willing to accept permanent and long acting appointments, but who are disinclined to fill up temporary gaps; and if candidates who can afford to forego short appointments are allowed to retain their right to permanent posts, I am convinced that the Subordinate Judicial Service would not only attract far more efficient recruits, but would be greatly strengthened by the elimination of candidates whose only recommendation is, that they have passed the B. L. examination, and have nominally practised for 3 years in the District Court. The recommendation made by several of the witnesses examined before the Commission that the recruitment of the Subordinate Judicial Service should be effected by a competitive examination does not commend itself to me as nearly so efficient. In the first place a competitive examination is likely to prove extremely unpalatable, as I have found by personal inquiry, to men of the age, position and standing of the Pleaders whom it is desirable to attract. In the second place I do not think presumptive fitness for the multifarious duties of a Munsiffship can be so adequately tested by a competitive examination as by a report of the Committee I have suggested, who have ample

opportunities of estimating the integrity, abilities and business-like capacities of the candidates from actual observation of their work.

There is another phase of the same subject which has received some attention at the hands of the Commission. The question was mooted, whether it was desirable to recruit the Subordinate Judicial Service from among the ministerial officers of the Courts? There is the high authority of Mr. Justice Prinsep for the opinion, that such appointments are not, as a rule, desirable. The further consideration, whether by allowing ministerial candidates in certain exceptional cases to be deemed eligible for Munsiffships, the establishment of the District Judge is not thereby very greatly improved and strengthened, was not however discussed before the Commission. There can be no doubt that for the higher appointments in the Judge's Court, the services of men of position and integrity, who have passed the B. L. examination are of very great value, and in my own experience have contributed to raise the standard of zeal, honesty and ability in the Judge's Court to a point to which it is not possible to attain merely by the promotion of subordinates who do not possess either the social position or the conscientiousness which is, upon the whole, characteristic of the class of men who receive a University education. I think, therefore, that the enlistment of such candidates should not be discouraged by any announcement that the acceptance of ministerial service will preclude the attainment of Munsiffships to which, by remaining at the bar, they might hope to aspire.

In connection with what has been urged in a former page, as to the desirability of entrusting a limited portion of the powers of District and Sessions Judges to a Sub-Judge as a tentative measure before he is vested with full authority, such limited appointments, if they are to be made, might be so utilized, as greatly to increase the usefulness of a District Judge in other ways. The importance of a frequent and stringent inspection of Lower Courts by the District Judges has been pointed out by many high authorities, and it is even remarked that unless all the offices subordinate to him are inspected at least once a year, a District Judge would fail in his duty. It is however perfectly well known that in many, if not the majority of districts, it is impossible for a district Judge, consistently with the proper performance of his judicial duties, to make these frequent inspections. In some districts, Sessions cases, Criminal appeals and Criminal revisions are so numerous and occupy so large a portion of his time, that a Judge who wishes conscientiously to dispose of this branch of his work to the satisfaction of the public and of the High Court

itself, finds it difficult to secure leisure for any inspection at all. Thus it happens that in the heaviest districts, where inspection is most necessary, a Judge is exceptionally hampered by the pressure of his judicial work. Such inspections as are actually made are too hurried to be of much use. A thorough insight, not only into the mode in which Munsiffs try their cases, but also into the whole working of the office, the efficiency of the various ministerial officers the working of the execution department, the promptness or otherwise of the service of processes the character of the Civil Court peons, and the supervision and control of his subordinates exercised by the head of the process department, cannot be accomplished in the brief visit which is now customary. It is necessary that the outside public, and especially the local bar, should be consulted as to any grounds of dissatisfaction which exist in any department of the office. It is not easy at first to find out in what direction the machinery is out of gear, but it is often possible to avert a scandalous breakdown by close and minute inquiry into matters which are just beginning to go wrong. When there are two or more Munsiffs at a station, there is often some friction between them as to the joint control of the office and the distribution of the work, which can be better remedied by consultation on the spot than by many weeks' correspondence.

There is another portion of a Judge's charge which is perhaps the most unsatisfactory, both to himself and the public, of all his multifarious duties. The District Judge has the sole authority to appoint guardians to minors and as the law at present stands, there is no provision for taking security from the guardians. The only available guardian may be a distant relation of the minors, whose interest it is to squander the trust property for his own selfish ends. The provisions which have been devised to check malversation and extravagance are practically inefficacious, if not absolutely nugatory. The obligation to file accounts is useless, because there is no means of ascertaining whether they are correct or not. The minor may no doubt sue the guardian either through a relative or after the expiration of his minority, but even if malversation is proved, it is generally impossible to obtain pecuniary compensation. Applications for the removal of a guardian on the ground of dishonesty are frequent.\* Many of them are proved on evidence

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\* In the district of Dacca, 78 certificates of guardianship were taken out in the year 1886, and 11 applications were made for revocation of certificates, on the ground of fraud or extravagance. In the year 1887, the numbers were 50 and 7 respectively. The data which a Judge often obtains accidentally of instances of malversation, are not sufficiently precise and indiscoverable to allow of his taking action *suo motu*; but there is no doubt that abuses of trust occur which never come before the Court at all.

to be only too well founded, but it is by no means uncommon that the guardian next appointed turns out to have been actuated, not by a desire to further the interests of the minor, but to obtain a share in the plunder before it is completely squandered. The reckless indifference to a minor's interests, which often characterizes guardians appointed under the Act is further exemplified by the numerous applications made to sell or mortgage a minor's property in order to liquidate debts, and to defray the expenses of education or marriage. The statements by which these applications are supported are generally *ex parte*, and a Judge, whatever his own misgivings may be, has seldom any option but to grant the application and to become himself, in many cases, an unwilling, but none the less real accomplice in diminishing the minor's assets. The result however of the Courts imprimatur is still further to hamper the estate by creating interests in third parties, and to defeat any ultimate effort of the minor, on attaining majority, to obtain restitution. The estates which thus come under the control of the District Judge are, no doubt, less rich and important than those which are managed by the Court of Wards for which there is an efficient and constant system of control, but there appears no good reason why the less valuable properties should be left practically devoid of effectual and honest supervision. Many of these estates are, although not large enough to come into the hands of the Court of Wards, of considerable annual income. I think the facts above represented disclose a strong case for remedial action, and the only effectual means of safeguarding the interests of minors, is by personal and local enquiry into the way in which guardians are carrying out their duties. A District Judge ought, for instance, to satisfy himself that the estate is not being unnecessarily encumbered with debts, that the ancestral buildings are preserved intact and in a proper state of repair, that surreptitious mortgages and loans are not being contracted, and that the minor's education is not being neglected. The effect of recent legislation is still further to increase the administrative duties of the Judge. Under a clause of the new Tenancy Act, he is empowered to appoint a common Manager of estates when the co-proprietors cannot amicably agree to collect the rent jointly. In these cases a short inquiry on the spot will often save much protracted dispute in Court. Another valuable mode of utilizing the mofussil tour of a Sessions Judge, would be by entrusting him with the duty of inspecting the offices of Subordinate Magistrates. The subject is too wide reaching and too likely to excite difference of opinion and controversy to be more than very briefly touched upon, but at first sight it would appear that if the

examination of a Deputy Magistrate's office was restricted purely to his judicial work, the supervision of which, as it is, falls upon the Sessions Judge and not on the Magistrate of the District, the authority of the latter would not be in any way superseded or impaired. For this kind of work the Sessions Judge ought to be well qualified, and he would then be in a better position than he is at present to advise the Government as to vesting particular officers with various powers under the Criminal Procedure Code, on which he has frequently to give an opinion without any adequate data.

If then the District Judge is to be looked upon not only as the judicial head of the district, but as the administrator of the district for judicial purposes, it is necessary that he should obtain more leisure to carry out efficiently his supervision into such matters as I have briefly sketched. And if an attempt is to be made to give effect to the scheme of the Commission as regards the promotion of Sub-Judges, the training of a few selected officers for the position they are ultimately to occupy, could be advantageously so utilized as to allow time to the District Judge for inspection work.

As I have suggested earlier, the commencement of a Sub-Judge's noviciate should be the performance of the duties of Assistant Sessions Judge. Sessions trials do not, as a rule, involve much difficulty and complexity; and in cases tried with assessors, there is always an appeal on the facts. If any particular case is thought by the Sessions Judge to be beyond the powers of the Assistant Sessions Judge, it would be easy for him to retain it on his own file, but the majority of cases are such, as after a little experience a Sub-Judge may be fairly expected to deal with satisfactorily.

## VI.

To sum up the result of the foregoing considerations, I consider that the proposals of the Public Service Commission involve injustice to the Covenanted Civilians, to certain members of the Statutory Civil Service, and to the public at large. I believe that it will be found impracticable to recruit the District Bench from English barristers and advocates and from pleaders of the High Court, because, even setting aside their lack of training in office work and administrative experience, such appointments would not be accepted by individuals who are, to quote the words of the report, "suitable in other respects, and have shewn distinguished ability in the exercise of their profession for a period of not less than 10 years." I also believe that the number of Sub-Judges who are fit to be raised to the position of District and Sessions Judges is at present small, and that even the few who are entitled to such promotion could not be satisfactorily raised "per saltum" to a District Judgeship,

but must pass through a period of probation as Assistant Sessions Judge. This probationary period would no doubt vary in different cases, but considering their total lack of training in criminal work, some years must necessarily elapse before any appreciable number of the District Judgeships could be so filled.

Is it then desirable to admit Natives at the present time more freely into executive and judicial posts, including those now held by members of the Civil Service? Unquestionably it is, and not only desirable, but a political necessity. Fortunately as it appears to me, the present system, with the proposed modification, will effect this object without having recourse to any of the heroic remedies above criticised, all of which are, as I have endeavoured to show, objectionable, as introducing a violent disruption of the chain of promotion among the members of the various services to appointments hitherto linked together on a homogeneous system. The main channel through which the Civil Service always has been and always ought to be recruited is the competitive examination in London. The best proof of presumptive fitness for high office that can be given by natives of India has been declared, by high authorities, over and over again, to be their success in this examination. They will have already given weighty proofs of their strength of character superiority to the ancestral prejudices of their race and country, and moral courage by their journey to England, and the fact, that, notwithstanding all the drawbacks incidental to their position, the temptations and disadvantages attaching to their exile in a foreign country, they should win a place in the ranks of the selected candidates, affords high promise that in future years they will exhibit the same qualifications for honest, upright and energetic administration which are characteristic of the Civil Service at large. The Bengali members of the Civil Service who have successfully passed this ordeal, few in number as they are, have in the opinion of competent critics completely fulfilled that promise, and have shown in the performance of their riper years, not only the ability but the administrative vigour which can alone be called out in those crises of an official career which must sooner or later test the moral fibre of every Indian Civilian. That the number of successful native competitors is at present small, is admitted on all hands to be due to the lowering of the maximum age of the candidates to 19 in the year 1878. Since that year only 4 native candidates have proved successful, of whom 3 have been appointed to this province. There can be no doubt that this lowering of the maximum age of candidates has, whatever be the reasons which justified it, practically closed the door to the élite of the educated classes, and has proved a death-blow to the legitimate aspirations of the country.



The reasons specified in the 62nd paragraph of the Report for fixing the minimum and maximum age at which Indian candidates should be allowed to compete, are unanswerable. They observe with truth that "the present limit is too low to admit of natives completing an education in India so as to compete with reasonable prospects of success at the English examination." They dwell upon the aggravation of the difficulties attendant on an examination conducted in a foreign tongue, by the fact that the natives have to present themselves 'at an age when their English studies, and their general education must necessarily be very incomplete.' There can be little doubt that the extreme hardship to natives involved in the lowering of the maximum age was not recognized when the revised rules were promulgated. The Commission were naturally at a great disadvantage in discussing the question of raising the age limit, because their instructions precluded them from taking into consideration the conditions attaching to English candidates. The Commission, however, take their stand on the views set forth by Lord Macaulay's Committee in 1854. They admit that those views were directed rather to the qualifications of English candidates but they indicate with sufficient clearness, that notwithstanding the possibly unforeseen introduction of the native element, these views should still be the guiding principles for regulating the examination. With regard to native candidates, they "unanimously and strongly recommend" that the maximum age limit should be 23 years. They observe that "the larger and more complete their English training is, the greater will be their grasp of the economical and political principles of administration."

If this wise and well considered recommendation is adopted, I believe that not only will the legitimate claims of natives to a fulfilment of the pledges repeatedly given by Parliament be satisfied, but a dangerous and wide-spread feeling of discontent will be removed, the more dangerous because it is well-founded.

Rightly or wrongly, the educated community of Bengal believe that the reduction of the maximum age limit was intended to frustrate Native competition. Whatever the object, this has been its undoubted effect, and the removal of this grievance will do more than all the other recommendations of the Commission to induce a belief among the people, that it is really intended to admit them to a fair share of the government of the country. The admission of individual natives "per saltum" to some of the higher posts of the administration will, in reality, satisfy very few, while the appointments themselves may frequently be canvassed in a hostile spirit. Accusations of favoritism and undue influence will

be common; the claims of rival candidates, especially of candidates belonging to different religions, will prove a fruitful source of discord; and if there is, as there must at present be, an undue proportion of Hindu as compared with Mahomedan nominees, the recent outburst of hostility and jealousy between the two great divisions of the Indian community must be intensified. Local administrations will find the task of nomination invidious and difficult and each appointment will cause an appreciable amount of heartburning and discontent among the members of the Civil Service who are from time to time superseded.

On the other hand, I believe that the bulk of the educated communities of India will be quite satisfied to enter the ranks of the Imperial Service through the avenue of competition, an avenue which if the age limit of natives be raised, is wide enough to admit every year a large proportion of Indian candidates. When the conditions of the contest have been equalized, it is impossible not to foresee a time when the immense population of India, with its yearly increasing proportion of educated youths will acquire by this legitimate channel an adequate share of the best appointments in the country. The perils and discomforts of a journey to England are, in the eyes of the most advanced and enlightened of the native community, yearly diminishing in their influence on the population. Many of the native gentlemen who have visited England declare, that they have never known or felt what it was to be excommunicated, and there can be no doubt that among the modern alumni of the colleges of Bengal and even Upper India, the fear of losing caste is a feeling which is practically dead. It appears to me therefore, for all reasons, that the recommendations of the Commission with regard to the age of Native candidates fulfil all the requirements of a "scheme which may reasonably be hoped to possess the necessary elements of finality, and to do full justice to the claims of the natives of India to higher and more extensive employment in the public service."

It is, however, a necessity of the present stage of the controversy, that the finality here suggested must be a real finality. The native public should understand on the one hand, that by making every reasonable concession to facilitate the admission of native candidates, Government have done all that is incumbent on them to fulfil once for all the pledges which have been so often quoted. On the other hand, even if the raising of the maximum age and the alteration of the system of marking for Sanskrit and Arabic should ultimately result in a larger influx of natives than has hitherto been contemplated, there should be no withdrawal of the boon, no tampering with the conditions

on which the contest is fought. The native public is entitled to demand a fair field and nothing more, but when this has been tardily conceded, the consequences, whatever they may be, must be faced in a wise and statesmanlike manner.

The Commission in the final paragraph quoted at the commencement of this article, contemplate a delay of at least a generation before the full effect of its proposals is felt. It may be a generation before the native public absorb the share of appointments in the Covenanted Civil Service which will be fairly proportionate to the educated population of the country. It may be longer still before they rise to the highest offices of the administration, but if the conditions of competition now recommended are unflinchingly accepted and adhered to in the future, the Indian public will have no right to complain of any scintilla of injustice, whatever the interval that elapses before that goal is reached.

Misgivings have been expressed by more than one witness that under the system of competition suggested, one race, which has outstripped all others in educational attainments, will tend to absorb nearly all the posts obtained by Indian candidates. Whether this be an evil or not need not be considered, for in the present state of public opinion, it is inevitable. It is not improbable, if the age limit is raised, that before many decades are passed, the majority of the appointments in the "Imperial Service" of Bengal will be held by Bengalis. The 'children of the soil' will have obtained their birthright—a birthright which, as years go on, we of the dominant race have less and less reason for grudging them. India is not now the El Dorado of the Englishman, and the particular province which is likely first to fall out of the grasp of English administration, has little of the attractions which in former days reconciled our predecessors to exile in the East. If it be true that the road to hell is paved with good intentions, then the plains of Bengal are strewn with the Dead Sea fruit of disappointed hopes. The Bengal of the past has disappeared; the halcyon period when the work to be performed was fairly proportioned to the time available for doing it; when honest, self-denying, capable administration received its recompense, not only in the tangible rewards of quick promotion, but in the more lasting form of the gratitude of the people, and before the ever dwindling currency destroyed the hope of a moderate competence on retirement. The young Civilian who comes out full of generous aspirations and kindly feelings for the people of the country, will not always find these sentiments reciprocated by the native community. These are not the days when even the good deeds of a Cleveland or a Nicholson would be enshrined in the hearts of the people. He will discover that years of

unsullied integrity, of honest, conscientious and ill-recompensed work, will hardly avail to save him from acrimonious criticism; that for his virtues there will be blindness, and for his weaknesses microscopic insight. The unceasing toil which is now the lot of the Indian Civilian leaves little time for the relaxation of former years, relaxations which alone rendered existence tolerable in the humid and depressing climate of Bengal—the most unsuited to a European of all the provinces of India. The modern facilities for visiting England at frequent intervals,—at first sight an alleviation of the Indian exile—in reality operate as emphasizing still more cruelly the absence from kith and kin, and the ennui of the small mofussil station, with its narrow range of sympathies and its weary humdrum of official routine,—the lack of all that satisfies the literary or artistic requirements of a healthy mind, the absence of the stimulus of educated society and the negation of “sweetness and light.” What wonder if disillusion rapidly succeeds to joyful anticipation amid these environments? To the many members of my own Service whose entire life has been passed in the isolated and dismal stations of Eastern, Northern or Central Bengal, to the majority who have by wider or shorter intervals failed of that recognition of ability and streak of good fortune, which would have placed them amid happier surroundings and more congenial work, it cannot be a matter for regret that the administration of the Government in the districts of Bengal should fall in the future to the race whose natural heritage it is, rather than to their own countrymen.

T. D. BEIGHTON

# THE QUARTER.

## THE WEST

### *Foreign Politics and Events.*

IT can hardly be said that the past quarter has improved the chances of peace. So long as France fails to develop political stability, so long as Germany holds Alsace-Lorraine, so long as the Balkan peninsula question remains unsettled, and so long as there is no check to Russian ambition but the difficulty of obtaining money, it would be rash to say that there is no likelihood of war.

Russia is increasing her armament on the frontiers of Austria and Germany, and it is partly, no doubt, to meet this expenditure that an Imperial ukase has been published, which sanctions a four per cent. loan of 125 millions of gold roubles for the conversion of the loan of 1887. The semi-official journals of Berlin have exhorted all Germans to hold aloof from this loan, stating that it is merely a cloak to cover the wide political aims of the Russian Government. As to France, M. Freycinet, speaking in the Chamber of Deputies said it was useless to expect any reduction in the extraordinary budget of the War Ministry, and he told the Chamber that they must be prepared to make exceptional efforts for the defence of their country. Owing to the increases in France and Russia, the Germans also are increasing their artillery. Possibly the Czar would not be averse to war as a safety-valve for Nihilism and Socialism. The discovery of a Nihilist bomb factory in a cellar in Czarow, and the derailment of the Imperial train (when the Czar was wounded in the foot and the Czarina in the hand), show that those terrible forces are never at rest. England, too, is improving her national defences. Guns to the extent of a million sterling are under manufacture, and the Martini rifle will shortly be replaced by the best magazine rifle in the world.

The Emperor of Germany's visits to Rome and Vienna have not tended to reduce the tension of feeling between France and Germany. It is said that at the Court dinner at Vienna, the Emperor put down the *menu* without reading it, on seeing that it was written in French. As to the result of his interview with the Pope, there are contradictory accounts ;

but as to the success of his visit to Rome, there can be no manner of doubt; and the greatest enthusiasm prevailed amongst the people owing to his visiting the Pantheon for the purpose of laying a wreath on the tomb of Victor Emmanuel. Between England and Italy, too, the most cordial relations continue to prevail. Signor Crispi has said that Italy cannot do without England, nor England without Italy. In case of war, Italy would be very much more than an ornamental ally to England.

On the other hand the relations between France and Italy continue to be strained. The Italian Government have disputed the right of the Government in Tunis to issue a decree for the inspection of the Italian schools there, and threaten to retaliate by inspecting French schools in Rome. France, itself, is in a state of unrest and pending changes. There have been two dynamite explosions in Paris, probably the work of Socialists. The decree ordering the registration of foreigners has been received as a proof that the French Government is taking further precautions against spies; but it really appears to be the first instalment of a promise to prevent undue competition with French labour. Possibly the hand of the Government has been forced by the bread riots in Paris. It seems clear that there will be some revision of the constitution. The Revisional Committee of the French Chamber has reported, by a majority of five to three, that it would be advisable to abolish both the Senate and the Presidentship; failing that, the financial control of the Senate ought to be modified, and the suspensory vote abolished. The feeling of a large portion of Paris may be gauged by the procession to the tomb of M. Baudin, the defender of the barricades in 1851. The revolutionary spirit in France is not likely to be softened by the introduction of an income-tax.

By no means the least important political question at the present moment is the establishment of some *modus vivendi* between Canada and America in the matter of the Fisheries. Sir John Macdonald of Ottawa stated his belief that, when the Presidential election was over, the Americans would be desirous of reviving the Fisheries Treaty. If, however, they still adhere to its rejection, Canada will be amply justified in falling back on the Treaty of 1818, (which forbids foreign vessels to fish within three miles of the coast), provided she agrees to an arbitration to settle the legal interpretation of the Treaty. The American attitude seems to be one of "might is right." They don't want any bargains. They are sixty millions, while Canada is only five; and therefore, they are twelve times more entitled to have their own way.

The Sackville incident has been said by Lord Salisbury (with that *curiosa felicitas*, for which he is conspicuous) to belong rather to the history of electioneering than diplomacy; the cause of complaint against the British Ambassador was individual rather than national. The demand for the recall of the ambassador is said to have been based on some expressions used by him to some newspaper interviewers, which seemed to impute discreditable motives to the President in the matter of the Canadian Fisheries. But it is hard to believe that a highly-placed diplomatist could have been so indiscreet.

The Manitobans have tried to carry their Red River Valley extension across the Canadian Pacific Railway, by force. The case is now before the Supreme Court of the Dominion; but the Manitobans are blustering and saying that, decision or no decision, they will have the line.

As regards Egypt there have been two motions in the House of Commons. Mr. Morley advocated the abandonment of Suakim. Sir James Fergusson urged that the place was useful in the suppression of the slave trade, and that the people there could not be abandoned to the mercy of the Arabs. Lord Randolph Churchill moved the adjournment of the House as a protest against involving England, with an inadequate force, in operations at Suakim. Mr. Stanhope maintained that the troops were sufficient, and that the policy in regard to Egypt remained unchanged. Both motions were rejected by majorities of 35 and 42 respectively. Recent events have shown that the troops at Suakim are barely able to hold their own.

The suppression of the slave trade on the East Coast of Africa is to be vigorously carried out. Lord Salisbury in the House of Lords said the Government had decided to comply with the German request to co-operate in the task of preventing the importation of arms and the exportation of slaves. Possibly Germans will not fully appreciate the humour of the recent cartoon in *Punch*, which more than hints that Germany is not much concerned for the sufferings of the slaves, but does care a good deal about having more colonial outlets for her surplus population. Humanitarians, however, will not blame Lord Salisbury for the step he has taken. England is not alone in the matter; Italy, France, and Portugal are all aiding in the blockade, and a regular cordon of gunboats is to be established from Suakim to Mozambique. It is reported that Emin Pacha's troops have mutinied, and delivered him and a white traveller, who is believed to be Stanley, over to the Mahdi.

An agreement has been signed by the North British Borneo Company Rajah Brooke of Sarawak, and the Sultan of

Brunei, accepting a British Protectorate over their respective territories. A British Protectorate has also been proclaimed over the Hervéy group in the Pacific at Raratonga, the principal island of the group: also over Savage Island.

General Sir Henry Norman, Governor of Jamaica, has been appointed Governor of Queensland in place of Sir Henry Blake, who resigned his nomination owing to the objections of the Queenslanders.

Other miscellaneous events worthy of note are the petroleum explosion at Calais; the terrible railway accident at Grassana in South Italy by the falling of a vast mass of rock on a train; the long drought in Australia (rain has since fallen); the murder of Major Barttelot by the Manyemas; the visit of the Dowager Empress Victoria of Germany and her daughters to Windsor Castle; the great demonstrations of students, intermixed with Republican agitators in Madrid against Senior Canovas and other Conservative leaders; the arrest of Dinizulu; the capture of Wadai in the Soudan by 70,000 Mahdists; the publication of Sir Morell Mackenzie's book, answering the charges of the German doctors, and its vigorous confiscation by the Berlin police; the prosecution of Professor Geffken in connection with the publication of portions of the late Emperor's diary; the dissolution by the Servian Metropolitan of the marriage between Queen Natalie and King Milan; and the election of General Harrison as President of the United States.

### *Home Politics and Events.*

The most thrilling events of the quarter have been the "occasional deviations from humanity" in respect of a certain class of human cattle in Whitechapel, and the recital of similar deviations before the Parnell Commission. The number of the former deviations is only seven: of the latter legion. Of the many surmises regarding the Whitechapel butcheries, the press seems to have given prominence to those that are most unclean. Even the "poor Indian" has not escaped suspicion—owing to the discovery of blood-stained *kukries* in a house in Kensington! A narrative might be constructed out of this suggestion, more thrilling than "the Moonstone" of Wilkie Collins. In such cases it is important to satisfy the public that the utmost possible is being done, and Mr. Matthews, we think, might well have broken the rule as to not giving rewards.

Whatever may be the result of the Parnell Commission as regards particular individuals, the English nation has been so shocked by the recital *en masse* of all the hideous and revolting details of agrario-political crime in Ireland, that future Governments, whether Liberal or Conservative, will probably experience



little difficulty, should occasion arise, in strengthening the forces which have to deal with crime. The Commission are doing their work in a thorough manner. They have ordered the production of the books of the Hibernian, National, Leinster, and Munster Banks for the purpose of examining the accounts of the accused persons, and the President refused to make any exception in the case of Egan and Miss Anna Parnell. Captain O'Shea has stated his strong belief that several letters, including that relating to the Phoenix Park murders, were signed by Mr. Parnell. The memoranda regarding the Kilmainham compact were destroyed at the instance of Sir W. Harcourt, on the advice of Mr. Gladstone in view of a Parliamentary Committee. The witness also deposed to Mr. Parnell having declared his power to stop outrages through Sheridan, Boyton, and others; he believed till June 1887 that Mr. Parnell was a man of the highest motives, but this belief had since been absolutely destroyed. Avowed Fenians have testified to outrages in which they took part. "Magna est veritas," but, unfortunately it does not always prevail. Let us hope that, in this case, we may add, "et prævalebit." The matter is not, or should not be one of politics or party: the struggle is between order and anarchy, civilization and savagery, the arm of the law and the arm of the murderous assassin. If legal complicity is brought home to any particular persons—and the *Times* says that this can be done—then it must be the wish of every loyal and right-thinking British subject, whether English, Scotch, or Irish, that the law should take its course. If only moral complicity be proved, the atmosphere will at least have been cleared, and society will be the gainer by the publicity of the disclosures.

Mr. Balfour bids fair to equal Disraeli and Mr. Gladstone in the field of oratory. His "patent and painstaking pulverisation" of the Mandeville myth has been by far the most remarkable speech of the quarter. Dying without breeches may dispel some of the romance of martyrdom, but still it is martyrdom. Guzzling sandwiches, however, cannot be brought within the pale of martyrdom, especially if, as seems probable, they were good thick savoury sandwiches!

As regards the Irish question generally, Lord Salisbury says the Government has never felt more resolute or more confident of success. Lord Hartington, speaking at Huddersfield, said that recent legislation had removed every Irish grievance, and it was intolerable that the Opposition should continue to obstruct legislation useful to the whole Empire, by keeping the Irish question still to the front. It is too much to say that every Irish grievance has been removed; but the grievances of English, Scotch and Welsh farmers also want looking to. The Separatists

seem to have lost strength. It has been pointed out that the Scottish Union (which no one regrets now) failed to commend itself, after it had been in existence for many years, to David Hume. The two counties knew they were indissolubly united, and it came naturally to the sensible and practical genius of Scotchmen, to resolve that it should be union for the better.

Mr. Gladstone has announced his determination not to retire till the Irish question is settled. His bill for dealing with arrears was rejected by 330 to 246 votes. It seems to us that the Conservatives must do something as regards (1) rents which are still too high, (2) arrears which are practically irrecoverable. The extension of Lord Ashbourne's Land Purchase Act will confer incalculable benefits on the Irish tenantry; but the rent question must be settled. The difficulty consists in having to interfere with *judicial* rents—a difficulty which can be thoroughly appreciated by the Indian and Anglo-Indian mind.

The Commission of Inquiry into the Metropolitan Board of Works scandals has issued an interim report which recommends legislation, making it penal to offer payment to members or officials of public bodies in connection with matters relative to the affairs thereof. Fancy this not being an offence in any country! England had better borrow our Penal Code, or the Code of some continental country.

Sir Charles Warren has resigned the Commissionership of Police, being succeeded by Mr. James Monro, late of the Bengal Civil Service. The latter is said to be on the track of the Whitechapel atrocities, and if the perpetrator be discovered, Mr. Monro will no doubt get his K C B. Sir Charles Warren's claim to disregard the instructions of the Home Office indicates to our mind that Mr. Matthews was not to blame, though he is being attacked by the Press in a follow-my-leader sort of style. In Bengal, it would be considered monstrous if the Inspector-General of Police or Commissioner of the Calcutta Police refused to acknowledge the superior authority of the Chief Secretary to Government in the Police Department; and it was no doubt unconstitutional for Sir Charles Warren to attempt to make himself independent of the Home Office.

The Report of the Currency Commission has been issued. A majority of its members have recommended the immediate adoption, by international agreement, of measures which will bring about a stable ratio between gold and silver. The minority, who do not endorse this view, attribute the dislocation of the relative values of gold and silver, not to excessive production of the latter precious metal, but to the discontinuance of the arrangements which existed prior to 1873. Even Mr.

Houldsworth has been converted to bimetallism by the evidence given before the Commission.

There has been a protest against competition in the *Nineteenth Century*, and a rejoinder in the *Universal Review*. There seems to be something in the protest, but no alternative is suggested. In Bengal, now-a-days, it seems to be considered that it is as great a recommendation to be a "Fail C. S." as a native *untimedwar* considers it to be a "Fail F. A." It is certainly not pleasant always to be in a state of examining or being examined, but perhaps even that is better than "shewing cause"; and it is difficult to imagine any possible situation or combination of circumstances in Bengal in which one is not either compelled to show cause, or given the opportunity of shewing cause, or allowed to make some one else shew cause.

There has been a great strike of colliers in Yorkshire, and the owners have had to yield to the demand for increased wages. This is a bad thing for the general consumer, increased cost of production meaning a dearer product and less consumption.

#### Miscellaneous.

The Lords have passed the Bill for the extension of the Land Purchase Act; also the Oaths Bill. The Government will proceed with the Bills for the Appointment of the Probate Duty in Ireland and Scotland, the Excise duties for Local Purposes, the Employers' Liability, and Scotch University Bills.

In the case of Sir John Pope Hennessy *versus* the *Times*, a nominal verdict has been returned by consent. The *Times* apologizes, and pays costs.

Mr. Sheehan, M. P. for Kerry, has been sentenced to one month's imprisonment under the Crimes Act, for advising the adoption of the Plan of Campaign. Mr. Edward Harrington, M. P., Proprietor of the *Kerry Sentinel*, has been fined £500 by Sir James Hannen for contempt of Court, in saying that the Parnell Commission was the creature of the Government and the *Times* newspaper.

Mrs. "Gordon-Baillie" will be able to help the crofters no longer—at least not for another five years, unless she should be let out on ticket-of-leave before her sentence is up. Her dupe and accomplice, Frost, has been sentenced to 18 months' imprisonment.

Mr. Vizetelly has been convicted at the Central Criminal Court for publishing English translations of three of the worst of M. Zola's novels. The sentence was a fine of £1,000, to enter into recognizances to be of good behaviour, and to undertake to stop the sale and destroy the remaining volumes in stock. Mr. Vizetelly may thank his counsel for not having

angered the Court by pleading *à la* Stead any loathsome cant as to the novels having a "high moral purpose."

To turn to the drama, it is clear that Mr. Gilbert has worked himself out. What "Ruddigore" indicated, has been made more plain by the "Yeomen of the Guard ; or the Merryman I and his Maid." The title alone is enough to choke off the inveterate playgoer. Even Sullivan's music cannot go on redeeming the irredeemable. Other plays of importance during the quarter have been "The Dean's Daughter" at St. James' Theatre ; "L'Abbé Constantin" at the Royalty ; "As you like it" at the newly opened Shaftsbury Theatre ; "Prince Karl" (Mr. Mansfield) at the Lyceum, and "Hands Across the Sea" at the Princess. The play at the Royalty is said to be so un-French, that mothers can take their daughters to it. M. Chassaigne's "Nadgy" at the Avenue Theatre has drawn large houses. The name is not melodious. But what's in a name ? Nothing at all, at any rate not much in 'Nadgy.' Arthur Roberts is of course dragged in as an Hungarian ballet rustic, and this Maharaj of comic actors of course makes the piece.

NEW BOOKS : The Law of Public Meeting, by J. W. Blagg ; Dictionary of National Biography, Vol. XVI., by Leslie Stephen ; "The Story of the Nations"—Holland, by J. E. Thorold Rogers ; "Tactics and Organization," by Captain Maude.

## INDIA AND THE EAST.

### *External.*

ISHAK KHAN, after his defeat by the Amir at Ghaznighak is said to have been most amicably received by the Amir of Bokhara. He will, no doubt, be a useful man for the Russians to put forward, should occasion arise, as a claimant to the Afghan throne. Owing to the revolt of Ishak Khan, the proposed Mission to Cabul had to be abandoned. There have been rumours during the quarter that the Shah of Persia has engaged to favour Russian aims and movements in Central Asia ; and no doubt the marvellous extension of the Russian railway system must tend to place Persia more and more under the control of Russia. But it can hardly be said that Russia is having her own way at present, seeing that the Shah of Persia has opened the Karun to commerce. This is the only navigable river in his dominions, and its being thrown open to commerce, confers a favour upon England and the whole world. However, it is probable that a Russian Consul will be appointed at Meshed.

Lord Salisbury's '*curiosa felicitas*' is again exemplified in his

remark, that the Black Mountain and Sikkim Expeditions were only the surf marking the advancing tide of civilization. Both expeditions have been crowned with success. The Akazais, Hasanzais, Tikriwals, and Parari Saiyids have all submitted and complied with the terms demanded of them, while Maidan and Palosi, the two chief strongholds of the Hindustani fanatics, have been destroyed.

In Sikkim, a severe defeat has been inflicted on the Thibetan army, and our troops are now occupying a portion of the Sikkim territory. The Chinese Ampa is said to be on his way to effect a settlement between India and Thibet, but China is well versed in the waiting game. The Roman poet tells us how the great Cunctator, General Fabius,

“cunctando restituit rem,”

and it is possibly the wish of the Ampa to minimize the value of the British victory, and restore Lama influence by a similar policy. *Nous verrons*. It is time for the country of Lamas and polyandry to open its gates to civilising influences. England cannot any longer continue indifferent to the shutting up of Thibet from the South, when another Power is making approaches to it of a well known kind from the North. In spite of the death of Colonel Prejevalsky, the Russian Mission is still bent on reaching Lhassa, nor does Russia consider it necessary, in sending a friendly mission, to ask any permission from China. It is a matter for regret that the Macaulay Mission was not allowed to start.

Burmah is being slowly and surely restored to order. There are to be expeditions to punish the Chins, and also the Kachins to the north of Moganug, and operations are being vigorously pushed on. ‘Outrages’ still occur from time to time.

The concession for working the Burmah Ruby Mines has been granted to Messrs. Streeter and Company, who will pay an annual rent of four lakhs, and one-sixth of the profits. Mr. Scoble, the law member has recently visited Burmah, in order to inquire into the constitution of the Civil Courts, and the advisability of establishing a High Court.

The appointment of Colonel Nisbet as Resident of Kashmir appears to have given great satisfaction to the Kashmir Durbar. As he has the Maharajah’s confidence, it is believed that he will soon set matters in order.

### *Internal.*

Lord Lansdowne has been sworn in as Viceroy. At the St. Andrews’ dinner, Lord Dufferin denounced the Congress and its doings. It is thought by many that the denunciation comes too late, and that it would have done more good had

it been made two years ago. Lord Lansdowne has naturally been slow at the outset of his career to give public utterance to his thoughts, but it may be predicted from his virgin speeches that railway extension will be pushed on, and that a larger scope will be given in the educational field to industries and other professions.

Before his departure Lord Dufferin received a good many deputations. In his reply to the Calcutta Corporation, he said that Local Self-Government was everywhere alive: in many districts it was green and flourishing: it might be decades before any very considerable impression would be made on the evils contended with: if the City of Calcutta knew how to set its house in order to adorn its thoroughfares to garnish its chambers, and to clothe itself in robes of spotless purity, it might well claim to be the imperial Metropolis of the East. Lady Dufferin has laid the foundation-stone of the Zenana Hospital. A novel feature in Eastern life was the deputation of 700 Bengali ladies to thank her for what she had done in the cause of the medical education of women. Since Lord Dufferin's departure, news has been received that he is to be presented with the freedom of the City of London in recognition of his distinguished services as Viceroy.

The National Congress is to meet in Allahabad. It seems probable that the spirits of the Congressionists will have been somewhat damped by the letter of Sir Auckland Colvin in reply to Mr. A. O. Hume, and the speech of Lord Dufferin at the St Andrews' dinner; and still more recently by the speech of Mr. Cane, M. P., at Aligarh. We would draw attention here to the remarkable article on the Congress Movement which appears in this issue. It is written by an official who has intense sympathies for the masses of the people. For our own part, we can see no reason why social reform should be excluded from the Congress programme. The fact that the Arms Act is always made the *pièce de résistance* among the standing dishes of declamation, would seem to show that the alleged grievances are unreal and imaginary. Mr. Toynbee C.S., shows in this issue that no Government could administer the Arms Act with more leniency. Hitherto, Government has been like Gallio in the matter, there is no Arms Administration Report, no Government Resolution. If these be started, we feel sure the administration of the Act will be more strict. One of the evils of the present lax administration of the Act is, that harmless birds of plumage and insectivorous birds (those that feed on insects which do damage to crops) are being daily slaughtered by thousands. We have good reason to know this, as the Halti, Chullun, and numerous other large beels are in the Rajshahye District.

There are many of us who sympathise with the desire of a people for the extension of local autonomy, but we fancy there are few right-thinking persons who do not feel that Mr Hume has gone far beyond the explanation attached to Section 124 A. of the Penal Code. It is our deliberate opinion that Mr. Hume has brought himself within Section 124 A, and we think that any strong Government would confiscate his pension and direct his prosecution under this Section. The most caustic criticism of men and measures may be permissible ; but it has very properly been made a criminal offence to attempt to excite feelings of disaffection towards the existing Government, and we understand that on Bombay side, Lord Reay's Government contemplate prosecuting a native for this very act.

*Miscellaneous.*

Kunhi Kunnan, Deputy Collector and Deputy Magistrate of Calicut, has been sentenced to two years rigorous imprisonment and a fine of Rs. 3,000, and his brother to one year's rigorous imprisonment and a fine of Rs. 500 for bribery and abetment of bribery.

The Crawford Commission drags its slow length along. An attempt has been made to have some of the witnesses prosecuted for their admitted corruption, and one cannot help feeling some sympathy for the action taken by Justices Jardine and Birdwood, though, as found by the Presidency Magistrate, the petition in which such action originated may have been filed with the express intention of embarrassing the Government. But the High Court can hardly press the matter. They have no initiative power under Section 191 of the Code of Criminal Procedure ; Section 45 of the Specific Relief Act cannot apply, as clause (6) excepts the Bombay Government ; and whatever other power (if any) they may possess to direct a prosecution, it would be no use to do so, as the Local Government could, under Section 401 of the Code of Criminal Procedure, remit a sentence directly it was passed. The Commission seems to be a needless waste of the taxpayers' money ; but it is of course for the public good that the corruption of the subordinate Revenue Service in Bombay should have been laid bare.

Mr. Moylan's appeal has been allowed by the Calcutta High Court (the Chief Justice sitting with Justices Prinsep and Pigot.) There are some who think the case called for *some* punishment, but from the first there has been a consensus of opinion that the punishment was out of all proportion to the offence alleged.

Sudabodh Bhuttacharjya has been convicted of the murder of his wife and sentenced to be hanged by Mr. Justice Norris.

Mr. Woodroffe found more than his match in Dr. Russell, and he was worsted and made to look foolish again and again in his long and tedious cross-examination of the witness. Among other questions, he asked Dr. Russell if he had examined the accused with a microscope! Owing to his unskilful cross-examination, a fact was brought out which had not been known even to the prosecution,—namely, that Dr. Russell had made a man pass through the bars of the window in the room where deceased was murdered. After the way in which Dr. Mackenzie had been knocked about on various occasions, it is refreshing to see a Police Surgeon not only holding his own, but delivering some very nasty and effective blows to the counsel for defence. The case will not enhance Mr. Woodroffe's reputation as an advocate for a prisoner in a criminal case.

The Manchester Chamber of Commerce has resolved, by a majority of ten, that the provisions of the British Factory Acts, restricting the hours of labour of women and children, should be immediately extended to the textile factories in British India. But why only textile factories? The resolution is, of course, dictated solely by motives of humanity!

There has been considerable loss to crops over large areas in different Provinces. The worst tracts are in the districts of Ganjam, Nellore, and Pooree, and in the Province of Guzerat. In many districts of Bengal, the winter rice will not be more than an 8 anna crop.

The Maharaja of Travancore has been invested with the insignia K. C. S. I. A Dharma Sabha has been established for Behar. There has been a daring act of piracy on the Bombay coast.

We would draw prominent attention to Mr. Carstairs's article on "Roads in Bengal," as affording an excellent solution of a difficulty which is vexing all the District Boards in the Province.

The Chinese Amban has arrived at Gnatong.

H. A. D. PHILLIPS.

22nd December 1888.

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## SUMMARY OF ANNUAL REPORTS.

### *Statistics of Municipal Taxation and Expenditure in Bengal, 1886-87.*

THERE are 138 Municipalities in Bengal, exclusive of the Calcutta Municipality. They have a total population of 2,698,853 souls of whom 467,388 are ratepayers. Of these Municipalities, 26 are situated in the Burdwan Division, 36 in the Presidency Division, 11 in the Rajshahye Division, 16 in the Dacca Division, 10 in the Bhagulpore Division, and 5 in each of the Divisions of Chittagong, Orissa and Chota Nagpore. The elective system has been introduced into all except 26 newly constituted Municipalities. The constitution of their committees is shown in the following table:—

DIVISION.	Nom- inated	Elected	Total.	Officials	Non- officials	Euro- peans.	Indians.
Burdwan.. ..	142	216	358	46	312	33	375
Presidency ..	237	134	366	43	323	20	546
Rajshahye ..	68	87	155	46	109	33	152
Dacca .. ..	108	115	223	38	185	18	205
Chittagong ..	2	77	79	16	63	5	66
Patna .. ..	175	15	190	65	125	36	304
Bhagulpore ..	73	79	152	23	129	26	126
Orissa .. ..	41	31	72	25	47	5	72
Chota Nagpore	52	17	69	18	51	11	58
Total .. ..	953	1,083	2,036	320	1,716	187	1,852

A statement of their incomes from various sources is given below:—

Abstract Statement of the Income of the Municipalities in Bengal during 1886-87.

HEADS OF RECEIPT.	BARDWAN DIVISION.				PRESIDENCY DIVISION				RAJSHAHY DIVISION				DACCA DIVISION.			
	HOWRAH.		Other Municipalities in this division.		Suburbs of Calcutta		Other Municipalities in this division									
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
1. Assessed taxes—	1835-85	585-87	1855-86	1885-87	1585-85	188-87	1885-86	1885-87	1885-86	1885-87	1885-86	1885-87	1885-86	1885-87	1885-86	1885-87
(a) Conservancy cess	62 855	66,117	26,78-	28,744	1 15 942	1 19 273	2,181	11,282	12 455	18,030	42 242	42 847	42 242	42 847	42 242	42 847
(b) License on trades	1,310	2 553	1,109	2,350	10,172	9 717	713	1,256	....	....	....	366	....	....	....	366
(c) Tax on persons according to circumstances and property	..	....	72 158	63 131	..	..	1 18 732	....	55,002	58,667	46,913	31,304	46,913	31,304	46,913	31,304
(d) Tax on houses and lands	1 39 763	1,145 536	1 00,355	1,13,882	1,39 882	2,48,235	36,660	2,12,433	42,181	40 513	70,459	85,645	70,459	85,645	70,459	85,645
(e) Water tax	..	..	..	17,117	..	..	..	..	9,50	12 218	....	..	....	..	....	..
2. Tax on carriages and animals	8,939	9,447	22 651	22,8 8	47,277	36,601	27,230	28,141	14,804	17 8 8	6,470	6,920	6,470	6,920	6,470	6,920
3. Toll on roads and at ferries	....	..	23 788	16 8,8	2,153	....	22,494	12,858	6,866	6,634	15,518	17 590	15,518	17 590	15,518	17 590
4. Other taxes—	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
(a) Fees on musical processions	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
(b) Tax on coal and on brick and lime kilns	..	..	..	..	..	..	2,668	357	....	....	....	..	....	..	....	..
5. Miscellaneous receipts	23,800	19,068	60,965	55,585	84,501	81 037	46,513	49,456	77,473	74 376	53,564	57,635	53,564	57,635	53,564	57,635
6. Loans	..	50 020	..	24 500	..	....	..	..	..	..	..	..	..	..	..	..
7. Deposits and advances	92	54	22,875	32,005	58,190	29,976	6,023	10,303	2,425	8,358	1,146	1,364	1,146	1,364	1,146	1,364
Total	2,34,769	2,03,261	3,30 658	3,76,698	5 58, 80	5,24,031	3 13,715	3,15,206	4,21,321	2,37,174	2,36,612	2,47,611	2,36,612	2,47,611	2,36,612	2,47,611

Abstract Statement of the Income of the Municipalities in Bengal during 1886-87.

	CHITTAGONG DIVISION.		PATNA DIVISION.		BHAGULPORE DIVISION.		ORISSA DIVISION.		CHOTA NAGPORE DIVISION.		TOTAL.	
	1885-86.	1886-87.	1885-86.	1886-87.	1885-86.	1886-87.	1885-86.	1886-87.	1885-86.	1886-87.	1885-86.	1886-87.
<b>HEADS OF RECEIPTS.</b>												
1. Assessed taxes—												
(a) Conservancy cess	Rs. 3,726	3,731	Rs. 8,181	8,181	Rs. 5,881	5,881	Rs. 11,951	11,951	Rs. 2,814	2,814	Rs. 2,814	2,814
(b) License on trades	....	....	....	....	691	936	....	....	....	....	14,998	17,186
(c) Tax on persons according to circumstances and property	19,400	1,864	9,023	9,726	12,979	31,424	....	....	....	....	5,045	2,459
(d) Tax on houses and lands	11,327	28,497	1,571,509	1,89,785	56,140	62,016	10,057	42,688	....	....	8,663,307	11,94,774
(e) Water tax	....	....	....	....	....	....	....	....	....	....	....	....
2. Tax on carriages and animals	2,277	2,677	16,594	21,977	13,799	5,356	7,887	7,887	1,885	1,885	9,830	29,403
3. Toll on roads and at ferries	9,200	8,367	32,948	39,083	20,180	10,851	9,153	9,153	....	....	1,68,337	1,69,615
4. Other taxes—												
(a) Fees on musical processions *	....	....	8,10	1,833	412	597	....	....	....	....	1,222	2,400
(b) Tax on coal and on brick and lime kilns	....	....	....	....	50	215	....	....	....	....	2,718	577
5. Miscellaneous receipts	18,771	17,907	97,002	85,237	58,176	18,094	17,807	17,807	15,366	15,366	5,51,822	5,33,328
6. Loans	240	....	....	300	....	....	....	....	....	....	240	74,800
7. Deposits and advances	542	....	7,013	28,593	17,451	8,544	10	3,521	566	2,350	86,311	1,34,594
Total	65,483	65,973	4,01,049	4,44,715	1,85,944	1,94,987	76,692	85,456	31,161	38,182	26,31,864	28,35,397

\* Under the present Act the Municipal Commissioners have nothing to do with musical processions, and have no right to levy fees on them. Passes are, or should be given by the District Superintendent of Police subject to the control of the District Magistrate.

An abstract of their income and expenditure is shown in the following table:—

DIVISION.	OPENING BALANCE.		INCOME DURING THE YEAR.		TOTAL FUNDS AVAILABLE FOR DISPOSAL.		TOTAL EXPENDITURE.		CLOSING BALANCE.	
	1885-86.	1886-87.	1885-86.	1886-87.	1885-86.	1886-87.	1885-86.	1886-87.	1885-86.	1886-87.
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Burdwan	77,129	72,272	565,467	6,69,959	6,42,596	7,42,231	5,74,272	6,27,395	68,324	1,14,836
Presidency	1,99,205	1,32,073	8,41,835	8,59,240	10,41,040	9,91,313	9,08,967	8,72,752	1,32,073	1,18,561
Rajshahye	35,513	47,468	2,21,321	2,37,174	2,56,634	2,84,642	2,09,110	2,40,313	47,524	44,329
Dacca	68,849	40,161	2,36,612	2,47,611	3,05,461	2,87,772	2,65,297	2,56,801	40,164	30,971
Chittagong	11,944	15,653	65,483	62,973	77,427	78,626	61,774	72,201	15,653	6,425
Patna	59,255	47,080	401,019	4,44,715	4,60,304	4,91,795	4,13,715	4,34,369	46,589	57,426
Bhagulpore	26,840	24,538	1,85,944	1,94,987	2,12,784	2,19,525	1,88,246	1,96,036	24,538	23,489
Orissa	11,864	14,955	76,692	80,456	88,556	95,411	73,600	84,378	14,956	10,833
Chota Nagpore	8,091	5,852	38,461	38,282	46,552	44,134	40,698	38,694	5,854	5,440
Total	4,98,496	4,00,052	26,32,864	28,35,397	31,31,354	32,35,449	27,35,679	28,23,139	3,95,675	4,12,310

The grants made to Municipalities from provincial or local funds are shown in the following table :—

Name of Municipality	Amount of grant.	FOR WHAT PURPOSE.
	Rs.	
Burdwan ...	1,120	For the support of one high and one middle class English school.
Bally ...	5,000	For acquisition of land required for extending the compound of the Rivers Thompson School.
Midnapore ..	169	For the maintenance of a girls' school.
Lalbagh ..	3,600	For the conservancy of the city.
Santipore ..	800	For the construction of a town hall.
	6,484	For the maintenance of certain Government roads lying within the Municipality.
Daijeeting ...	1,050	For the working of the Porters and Dandywallas Act, 1883.
Rampore Beaulah ..	700	For the support of the charitable dispensary.
Gya ..	10,151	For the erection of a building for the pilgrim hospital.
Deoghur ..	210	For the conservancy of the town.
Cuttack ...	200	For the benefit of the tenants of the Government estates. The amount was credited to the Municipality at the close of the year.
Pooree ...	4,772	For conservancy, medical and other charges.
Patna ..	420	The purposes of these grants are not reported by the Commissioners of divisions.
Kandi ...	1,600	
Furiedpore ..	50	
Madaripore ..	128	
Sherepore ...	44	
Susseram ...	1,309	

The percentage of Municipal Revenue spent under principal heads of expenditure is shown below :—

NAMES OF DIVISIONS.	Income of the year 1883-84.	PERCENTAGE OF INCOME SPENT ON—					REMARKS.
		Establishment.	Public safety.	Public health.	Public instruction.	Public convenience.	
	Rs.						
Burdwan ..	6,69,949	8'46	9'65	41'59	3'40	20'01	
Presidency ..	8,59,210	10'96	13'10	39'73	3'45	22'07	
Rajshahye ..	2,37,174	17'22	2'26	50'10	2'88	15'18	
Dacca ..	2,47,611	11'66	3'61	57'34	2'94	21'77	
Chittagong ..	62,973	8'10	9'79	49'71	7'97	22'83	
Patna ..	4,44,714	11'51	5'19	45'47	3'23	21'37	
Rhagulpore ..	1,04,587	9'39	1'73	58'31	2'87	22'05	
Orissa ..	8,456	14'48	6'24	49'20	5'51	18'88	
Chota Nagpore ..	58,232	14'32	2'21	60'52	3'26	14'93	
Total ..	28,35,397	11'03	8'13	45'62	3'43	21'07	

The percentage of establishment and collection charges, to the total income of the year is given in the following memo. :—

YEAR.	General estab- lishment.	Collection charges.	Total.	Percentage ratio to the total income of the year.
	Rs.	Rs.	Rs.	
1883-84 ... ..	1,53,987	1,14,375	2,68,362	98
1884-85 ... ..	1,57,284	1,17,110	2,74,394	102
1885-86 ... ..	1,77,978	1,20,310	2,98,288	109
1886-87 ... ..	1,86,072	1,20,674	3,12,746	113

The work done by the Municipal Commissioners in their capacity as Honorary Magistrates in disposing of the nuisance cases is spoken of with praise.

Act IV. (B.C.) of 1873 for the registration of births and deaths is in operation in 148 towns in the mufussil, and in one rural area in Darjeeling.

Under Act V. (B.C.) of 1883, 660 porters and 605 dandy wallas were registered in 1886-87.

The Pilgrims' Lodging House Act, IV. (B.C.) of 1871 is in force in the towns of Poores (Jagannath), Gya, Deoghur, Uluberiah, Ranigunge and Gurbetta; at Poores 353 licenses were granted to lodging house keepers for the accommodation of 22,541 pilgrims, while at Gya 525 licenses were issued for the accommodation of 15,592 pilgrims. The Act worked beneficially in the towns to which it has been extended.

*Records of the Geological Survey of India. VOL. XXI,  
PART 3. 1888.*

**B**ABOO Pramatha Nath Bose, B. Sc., F. G. S., contributes an interesting paper on "The Manganese-iron and Manganese ores of Jabalpur," accompanied by two maps. Mr. R. Bruce Foote, F. G. S., furnishes a translation of a learned, long-winded, and somewhat disputatious treatise by Oberbeigrath Professor, Doctor W. Waagen, on "The Carboniferous Glacial Period." The worthy Professor has some ideas about the Salt-range, which do not appear to have been generally accepted :—

It has long been known that in the Salt-Range also, formations are not seldom met with, which have, doubtless, been formed under the co-operation of ice.

I have myself seen and studied these formations in many places, but till now had no opportunity of expressing my opinions about them publicly. Even now I feel somewhat embarrassed about speaking on this subject, for a remarkably unlucky star rules over everything that I publish on the general relations of the Salt Range. Every time I am rebuffed in a manner that is really not seemly. Expressions such as "ignorance," "charlatanism," or "it would be best to regard such a paper as unpublished," are among the terms of endearment I am thought worthy of. If the writers of these knew how I take counsel with myself for years, and consider from all points any important view before I publish it, they would, perhaps, judge me more indulgently. Hitherto it has not been possible for them to disprove my position; consequently I feel myself justified in still holding fast to the views which have given occasion for such harsh criticism.

The only other contribution to this issue is by Dr. Oldham. It deals with "The Sequence and Correlation of the Pre-Tertiary Sedimentary Formations of the Simla region of the Lower Himalayas."

*The Progress and Condition of the Government Botanical Gardens at Saharanpur and Mussoorie, for the year ending 31st March 1888.*

We have before us a Report on the progress and condition of the Government Botanical Gardens at Saharanpur and Mussoorie, for the year ending 31st March 1888. It is a record of good experimental and industrial work well done.—

The receipts and expenditure during the last three years

	Receipts,		Expenditure,	
	Rs.	a p	Rs.	a p.
1886-87	9 669	8 1	33,388	0 11
1887-88	13 683	0 6	33,856	3 0
1887-88	14,919	1 8	19,327	8 11

We are glad to hear that the number of trained gardeners sent out from the Technical School continues to increase, and that they command good salaries. A great many new varieties of fruit trees have been introduced from America and other countries, and are thriving.





enhanced price of land, and some to a succession of bad seasons which has so impoverished the cultivators that they are at length induced to part with their lands.

The miscellaneous operations of the departments are shown in the following comparative table :—

The following statements shows the income and expenditure of the department for the last two years :—

				1886-87.	1887-88.
INCOME.					
<i>Fees—</i>				Rs	Rs.
Ordinary ...	...	..	..	1,40,662	1,62,084
Extraordinary ...	...	...	...	13,035	14,523
Copying ...	..	..	..	37,909	43,129
Total ..				1,91,656	2,19,736
EXPENDITURE.					
<i>Inspecting Officers—</i>					
Salary ...	...	...	..	10,800	11,520
Establishment ...	...	..	..	4,996	5,097
Contingencies ...	...	...	...	3,780	5,280
<i>Registering Officers—</i>					
Remuneration ...	...	...	..	50,323	55,440
Establishment ...	...	..	..	33,122	33,635
Contingencies ...	...	..	..	1,589	1,744
Total ..				1,04,610	1,12,625
Surplus ..				87,046	1,07,111

*The Kharif or rain crop report of the Gadenpore Experimental Station, 1887-88.*

THIS season was unfavourable and the results "somewhat negative." Such experiments as were taken in hand were confined to plots of maize, cotton, indigo and sugarcane. For the two first, woollen refuse, followed by sheep's dung, proved to be the best manure. Gypsum was found good for indigo, as for all leguminous crops. The native method of cultivating sugarcane was found more suitable to the condition of the climate, than the West Indian plan of growing in lines. In the latter case, the plan is designed for a climate where rain falls on most days of the year; the cane must, therefore, be grown well apart to secure the benefit of the falls. In India the water is delivered by artificial irrigation channels direct to the foot

of the cane, and a close growth overhead minimizes loss of moisture by evaporation in the intervals between irrigation.

The following table gives the results of indigo sown in two ways :—

No. and area of plots.	Special treatment.	Cost of the special treatment per acre.	Weight of green crop sold.	Outturn per acre.	Value per acre at 20 lbs per rupee	Increase.	
						In weight.	In value.
			lb	lb	Rs.	lbs.	Rs.
(1) 532 square yards.	Seed sown with drill.	No noticeable difference of the cost between the two ways of sowing.	5,507	7,507	24 7 0	5,462	17 13 0
(2) 4,658 square yards.	Seed sown broadcast		2,045	2,045	6 10 0	..	...

The following threshers were tried against threshing by bullocks :—

- (1) May Furth's hand thresher.
- (2) Ben Reed's thresher.
- (3) Shearer Brothers' hand and foot thresher.

No. (1) was worked by hand, the other two were worked conjointly by bullock power. Their results are noted in the following table :—

Number	Name of machine	Weight of sheaves threshed	Outturn			Time occupied	No. of women employed at the same rate six pice per day	No. of bullocks employed at 12 annas a pair per day	Total cost	Cost per maund of clean grain	Cost per hundred maunds of clean grain.
			Clean grain	Chaff	Loss						
		Mds.	M s c	M s c	M s c	H m	Women		Rs. a. p.	A. p.	R. a. p.
I	May Furth's hand thresher.	10	3 16 0	6 20 0	1 0 0	1 30	6	..	0 3 0	1 1/2	5 7 6
II	Ben Reed's and Shearer Brothers' threshers.	20	6 30 12	12 37 0	12 4 0	2 0	6	4	0 12 0	7 1/2	7 0 6
III	Country way of threshing by bullock.	10	3 30 0	5 30 0	1 0 0	19 30	1	2	1 3 0	10 1/2	30 7 6

The cost in the above table includes the interest on capital, repairs, wear and tear, wages of trained foreman, oil, &c.

The work done by machine No. I, was no doubt the cheapest of all; but the straw on examination was found to contain a large portion of unthreshed entire ears which had to be beaten out by sticks.

*Report on the Revision of Settlement of the Panipat Tahsil and Karnal Pargana of the Karnal District.* By Denzil Charles Jelf Ibbetson of Her Majesty's Bengal Civil Service. Allahabad : Printed at the Pioneer Press. 1888.

THE tract of country with which this report deals is a quadrilateral area of 892 square miles, lying between the Jumna on the east and the highlands of Jind and Kaithal on the west. Physically it is divided into the Khadir or lowland along the river, and the Bankar, or high-lying tract beyond stretching towards Kaitthal. It is crossed by the Grand Trunk Road and the Western Jumna Canal: it contains 330 village areas, and 336 mahals, or revenue units. Also two large towns, Karnal and Panipat, both on the Grand Trunk Road. To persons desirous of fuller information about it, we recommend study of the Settlement Report which is now serving us for text. Many parts of it are most interesting; e.g., a history of district famines to be found in paras. 55 to 65; a sketch of the state of the country in 1805 (para. 93); caste histories in chapter VI; village societies (chapter VII) and widow re-marriage. On the last-named subject we extract the following:—

*Re-marriage of Widows.*—As I have said, a man may marry as often as he pleases. If he marries again on the death of his wife, he is called *dhegu*. The ceremonies are exactly the same for a man's different marriages. But under no circumstances can a woman perform the *phera* twice in her life. Thus among the Rajputs, Brahman, and Tagas, who do not allow *karewa* or *karto*, a widow cannot under any circumstances re-marry. But among other castes a re-marriage is allowed under the above name. It is, in its essence, the Jewish Levirate; that is to say, on the death of a man, his younger brother has first claim to the widow, then his elder brother, and after them other relations in the same degree; though *karewa* cannot be performed while the girl is a minor, and her consent is necessary. But it has been extended so that a man may marry a widow whom he could not have married as a virgin, the only restriction being that she is not of his own gens. Thus, a Gujjar may marry a Jat or Ror widow of any gens but his own. I need hardly say that neither marriage, nor adoption, nor any other ceremony, can change the gens of a man or woman; that being, under all circumstances, the gens of the original father. Even women of menial castes can be so married; but the woman is then called *heri hili*, though it is still a real marriage. At the same time any marriage out of one's own caste, even if with a higher one, is thought disgraceful.

The marriage must not take place within a year of the husband's death. It is effected by the man throwing a red wrap over the woman's head and putting wristlets (*chura*) on her arm in presence of male and female members of the brotherhood. There is no *neota* in *karewa*, because there are no expenses.

The villagers in the Karnal district are, as a mass, utterly uneducated, though a considerable number of the headmen can read and write Mahajani, or Hindi, as they call it, to some extent. Outside the ranks of the headmen few people can count beyond 20.

There are seventeen primary schools in the tract with 974 scholars, and two middle schools with a total of 64 scholars.

It is very difficult for a villager to send his boy to school unless there is one in or quite close to his village; and even when this is the case, they object to sending their sons to school, because, they say, *it renders them discontented with, and unfits them for their position.* Persian they especially object to. The language of the tract is Hindi, with a small admixture of Punjabi words.

The dialect varies slightly from north to south; and especially the Jats of the southern border use many words not used in the rest of the tract, with a pronunciation and accent quite peculiar to them. A curious instance of the formation of inflections is afforded by the local use of the verb *sān*, *so*, *sai*, *sain* for *hūn*, *ho*, *hai*, *hain*. The *s* is frequently affixed to the end of the verb, and the remainder of the auxiliary dropped. Thus "*śāī dāngar kāl ho rahūs*:" "all the cattle are starving," instead of "*ho raha sai*."

A man may make a stranger of another, gens his *bhūnbhai*, or earth brother if his near cognates consent, in which case he gives him a definite share of his land on the spot, and the *bhūnbhai* loses all rights of inheritance in his original family. The ceremony is complete by public declaration of the transfer and the consent, and by the usual distribution of sweetmeats. According to Elliott the *bhūnbhai* could not formerly dispose of his land, but this is no longer the case. But some hold that if the *bhūnbhai* has no near cognates, the land reverts to the family of the donor.

Under no circumstances, except as above-mentioned, can a landowner make a gift of land out of the cognate community; and not even within it, except among the Rors; and then if the gift is made in the absence of sons, and a son is born afterwards, it is resumable.

*Dhartī Mātī* is a peculiar observance. It is thus described:—

Every morning, when a man first gets off his bed he does obeisance to the earth, and says *sukh rakhiyo Dhartī Mātī*, "preserve me, Mother Earth." When a cow or buffalo is first bought, or when she first gives milk after calving, the first five streams (*dhār*) of milk are allowed to fall on the ground in her honour, and at every time of milking the first stream is so treated. So when medicine is taken, a little is sprinkled in her honour. So at the beginning of ploughing and sowing, obeisance is made to her and she is invoked.

The report is a most interesting one and from it a vast amount of information may be gathered about popular habits and customs. Mr. Ibbetson did excellent work as census Officer in 1888, and his report and that of Mr. Baines of the Bombay Civil Service were specially commended by the census Commissioner and the Government of India.

*General Report on the operations of the Survey of India Department administered under the Government of India during 1886-87.*

THE Report of the Survey Department for 1886-87 is a record of good work, well done at all points of the Indian compass, from Beluchistan to Burmah. Trigonometrical Survey is being prosecuted on the Madras Coast; Topographical Survey parties are busy all over the Continent; two in the Bombay Presidency, one in Guzerat, one in the Southern Mahratta country, a half party in Beluchistan, one in the Mirzapore district, one in the Himalayas. Another party has been engaged in making a survey of the Nicobar Islands, the main object of which was to meet the requirements of navigation. Forest Surveys have been continued, on an 8-inch scale for the most part. In Lower Burmah No. 20 Party conducted its operations on a 4-inch scale. Owing to the unsettled state of the country, and the impossibility of providing police guards for all the scattered detachments in the Prome district, the native section of the party employed there became quite demoralized, and it was found necessary to suspend the work. That all natives of India connected with the Survey are not timid is manifest from the explorations of M. H. in Nepal and Tibet, of R. N. in Bhutan, of K. P. in Tibet. Of the latter it is written:—

In 1880, a native of Sikhim, K. P. was sent in company with a Chinese *lama*, by the late Captain Hauman, to Tibet for the purpose of exploring the course of the Sangpo river below Gyala Sindong, the point which had been reached by explorer G. M. N., to the plains of India; or, failing this to throw marked logs of timber into the stream at the lowest point reached, in order to solve the question of its identity with the Dihang. K. P. has returned to India after many adventures and has given a narrative of his travels, which shows that, owing to the delinquency of the *lama*, the arrangement for casting logs into the Sangpo was not carried out. K. P. was sold as a slave in the Pemakoi country, from which he eventually managed to escape. He succeeded in penetrating to a place called Onlet, on the Sangpo, which he states is not much more than 40 miles from the plains of India; and his account, combined with information derived from a Mongolian *lama* who had lived for many years near Gyala Sindong, has enabled Colonel Tanner to construct an amended chart of the course of the Sangpo between Gyala Sindong and the point to which our knowledge of the Dihang river extended which will be found in the appendix. It is intended to publish the itineraries of both K. P. and R. N., together with the information obtained from the *lamas* in a separate report.

The processes of heliogravure, we are told, have made great progress of late. Results obtained show that for the reproduction of line work, the process is quite capable of taking the place of hand engraving, for temporary purposes. For the reproduction of maps in half tone, however, it requires further development. Meanwhile, heliogravure processes have been utilized largely

for the reproduction of drawings for the Archaeological Survey and for a Technical Art Series, for educational purposes.

Over and above its pure survey duties, the Indian Survey Department is doing useful work in connection with the reclamation of village Putwaris and their breaking in to honest ways of earning a living.

We note that Colonel Holdick (of the department) has been honoured, by the award to him of the Founder's medal of the Royal Geographical Society. In recognition of their services in Burmah, Colonel Woodthorpe has been made a C.B., and Major Hobday has received a step of brevet rank.

*Revenue Administration, N.-W. P., for the Revenue Year 1886-87. Allahabad: N.-W. P. and Oudh Government Press, 1888.*

THE Report on Revenue Administration in the North-West Provinces for the departmental year, ending 30th September 1887, says that the public health was not good, though the health of cattle was. That is curious. Food grains were dear. The general rise in prices benefitted the purely agricultural community; though the extent of the profits which agriculturists, who are not also grain dealers, reap from such rise in any particular year, cannot be very precisely estimated. Daily labourers must have cursed it. The Political Economists never take their interests into consideration. The Commissioner of the Jhansi Division thinks that the supply of grain at Jhansi itself has hardly been equal to the demand made on it. The supply and demand theory has failed over and over again when applied to Indian Bazars; notably at the time of the Orissa Famine. However great the demand may be, traders do not care about sending their supplies to markets where there is no money available to pay for them.

Total receipts in 1886-87, amounted to Rs. 5,28,74,256, as against Rs. 5,35,17,474 in the previous year. The Jhansi Division is set down as the defaulter; but there is not such a large real default as is shown, inasmuch as the year's demand included a nominal sum of Rs. 21,427 that used to be payable by villages ceded to Gwalior. The exchange of territory by virtue of which they were made over to that Durbar was not effected till after the commencement of the year; and red tape ruled, consequently, that the demand for the transferred villages could not be removed from the Roll until after its close.

Nearly the whole of the outstandings in Agra are due from pargana Fatchpur Sikri, the settlement of which was revised last year. Regarding this pargana, the Commissioner

writes "So far there has been no improvement in that unfortunate tract, and I fear improvement is likely to be very slow. Either there are floods and no kharif, or there is a dry year and no rabi. The pargana is ravaged by pigs and wild cattle from Bhartpur, and cultivation is carried on under such difficulties that it is not wonderful that tenants are hard to keep. I very much regret that my proposal to make a fluctuating settlement in this tract—a proposal which had the support of the Board—was not adopted. So far, at any rate, the fixed settlement which the Government ordered to be made has not proved a success."

During the year 10,092 acres of land were appropriated, of which 9,532 acres were acquired permanently, and 560 temporarily. The total compensation paid under both heads was Rs. 2,47,191, in addition to which an annual reduction of revenue to the extent of Rs. 7,037 was granted. Of the appropriated area, 542 acres were taken up for roads, 3,098 acres for canals, 6,283 acres for railways, and 169 acres for buildings and miscellaneous works. The appropriations for railways were on account of the Northern Extension of the Oudh and Rohilkhand Railway in the Saharanpur, Muzaffarnagar, and Bijnor districts; the Cawnpore and Achnera State Railway in Muttra, Farukhabad, and Cawnpore; the East Indian Railway in Etawah, Allahabad, and Mirzapur; the Oudh and Rohilkhand Railway in Benares; the Bengal and North-Western Railway in Gorakhpur and Basti; the Rohilkhand and Kumaun Railway in Kumaun; the Bareilly and Pilibhit Railway in Bareilly and Pilibhit; the Cawnpore-Kalpi State Railway in Cawnpore and Jalaun; the Jhansi-Manikpur Section of the Indian Midland Railway in Banda, Hamirpur, Lalitpur, and Jhansi; and the Jhansi-Kalpi Section of the Indian Midland Railway in Jhansi and Jalaun.

In the Gorakhpur, Basti, Jalaun, Jhansi, and Lalitpur districts, the acquisitions for railway purposes were dealt with by special officers appointed for the purpose.

The average rate of compensation per acre paid for the area acquired permanently was Rs. 25-5-3, and that for land acquired temporarily, Rs. 10-4-9. This contrasts strikingly with the larger amounts paid in Lower Bengal. In the preceding year the average rate was Rs. 51-6-5 in the case of permanent appropriations, and Rs. 12-0-3 in the case of temporary appropriations. There is no explanation of the remarkable difference between the two years.

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## ART. I.—CAMEOS OF INDIAN DISTRICTS.

### *I.—Purneah, Bengal.*

THE district of Purneah with an area of 4,956 square miles is the third largest among the regulation districts of the province, and though its population in 1881 was shown to be 1,848,667, which is fully up to the average population of Bengal districts, yet by reason of its great area, it is, with two exceptions the most thinly-populated regulation district in the province. The cause of this is not far to seek, as the district is conspicuously a grazing one, affording pasturage to the cattle of adjoining districts as well as to countless herds of its own. This circumstance exercises a marked effect on the revenue derived from cattle pounds, which amounts to nearly half a lakh of rupees annually.

This feature is not a subject for regret: much of the land devoted to pasture is probably incapable of being profitably cultivated, and it is consoling when crops fail to know that a very considerable portion of the population do not depend on agriculture, but find cattle breeding and dairy farming a profitable occupation: this goes far to account for the fact that according to the last census, nearly half of the population was non-agricultural, which at first sight seems somewhat astounding in such a very rural locality. The Hindus of Purneah outnumber the Mahomedans by some 300,000, though the latter have more pupils under instruction than the former, which, I believe, is unusual in Bengal. This is accounted for to a great extent by the preponderance of Mahomedans in the

Kissenganj Sub-division, which assimilates more to Bengal in its desire for education than does the rest of the district. The district is educationally backward and will be found figuring in the darkest shade but one in the shaded charts of the Director of Public Instruction. This shade, however, is shared by the greater part of the province and represents 10 to 25 per cent. of the population of a school-going age as actually under instruction. The district is divided for executive purposes into three Sub-divisions, Purneah, Kissenganj and Arraria, containing thirteen police stations and numerous outposts. The police force gives an average of 108 of a constable to the square mile, which inadequate as it is found to be, would be far more so but for the generally orderly and inoffensive character of the population.

The staffs administering civil justice and registration of assurances contrast remarkably with those of some Eastern districts; for, whereas Purneah has but six Moonsiffs and 4 registry offices with a population approaching two millions, the little district of Noakhally, with under a million, has as many Moonsiffs and registry offices as it has police stations; and is thus shown to be a district of the first rank in point of education and litigation. The revenue of Purneah is derived chiefly from land which contributes eleven and three quarter lakhs; nearly three lakhs are derived from excise, under which head ganjah is the most conspicuous item; stamps yield over two and a half lakhs, and income-tax another half lakh; if pound and ferry collections are added, the total revenue of the district, exclusive of local cesses, may be roughly given at eighteen and a half lakhs. The road and public works cesses and the zamindari dak cess make up a grand total of about twenty lakhs of rupees a year, which gives an incidence of a little over one rupee per head of the population, exclusive of what may be derived from the salt tax, the incidence of which it is difficult to estimate with precision.

The Municipalities of Purneah and Kissenganj collect Rs. 15,000 and 2,000 a year, respectively, for purely local purposes.

Having dealt briefly with the more salient points in the statistics which may serve as a framework to my narrative, I shall now endeavour to brighten the subject with such details as can only be derived from a residence in the district, and which, I trust, will be found not without interest, as supplying the local colour which can hardly be brought out in a mere statement of figures.

The district forms a portion of the debateable land between the province of Bengal and Behar. Though it is for administrative purposes a portion of Behar, it would puzzle any man to decide why it should not be treated as Bengal. On the confines

of Dinajpur and Maldah we find the Bengali language the mother-tongue of the people, and this is also the case to a considerable distance West of the Nágor river which forms the boundary of the two provinces. The farther West we go, the more faint become the traces of the Bengali tongue, till, in the neighbourhood of the river Kosi in Pergunnah Dharmpur, we come to a stronghold of Mithila Brahmanism where all connection with Bengal is disavowed, and the language is a dialect of Hindustani, which, however, is as different from the language of the *Bágh-o-Bahár* as it is from Bengali.

The district is doubly a border country, abutting to the North on the Nepal Terai as it does to the East on the Bengal districts. On the South again it is only separated from the aboriginal tribes of Sonthalia by the river Ganges. The effect of these circumstances is noticeable even more in the varying physique and character of the population than in the language; on the North, and especially in the Kissenganj Sub-division, the presence of hill blood is very manifest, even among the Mahomedan population, and in the Koches we have the descendants of aboriginal settlers from the North.

I am not aware that the Mahomedans of Kissenganj Sub-division owe their predatory instincts, which have given them an evil reputation in the police annals of the district, to an infusion of hill blood, though that may indirectly contribute to form their character, which, while it shows the subtlety of the Bengali, has a dash of audacity which must be derived from some hardier race; but there can be no question that they derive their robust frames and fair complexions from that source. The circumstance of the Mahomedan faith having been very generally adopted has not, by any means, led to the introduction of the *Purdah-nishih* system. This is probably due to the free instincts of a hill people being too strong to admit of such a change; on market days the wives and daughters of farmers turn out in all their finery in a manner that would horrify the straitlaced Moslems of Eastern Bengal, where females between the ages of eight and eighty are rarely seen abroad. No one who has visited Darjeeling could fail to be struck by the strong resemblance in face and figure between the women of the northern portion of the Purneah district and their sisters in the hills. There is no attempt made to conceal their fair round faces, the head and shoulders being left bare; the sari is unknown, being replaced by a cloth which is tied tightly round the body, passing just below the arms, which are left free and uncovered, while it forms a skirt which reaches below the calf of the leg. The cloth used is locally manufactured and dyed, and the colors which are arranged in stripes are invariably in good taste and produce a pleasing

effect. The physique of this class is such that, should occasion require, I doubt not that they would be able to carry a maund on their backs, or even the traditional grand piano, nearly as well as their primitive sisters in the hills whom they so closely resemble; but happily there is no occasion for their doing so, for a more prosperous class of agriculturists does not exist in the district or perhaps in the province. The ryots hold excellent lands at moderate rates of rent, and the country is remarkably free from agrarian disturbances. The bad characters, of whom there are many, direct their operations against their neighbours, occupying themselves with burglaries, petty dacoities and cattle-lifting, a well known variety of the latter offence consisting in stealing cattle, keeping them concealed, and returning them for a consideration.\* The vicinity of the Morang, by which name the strip of lowlands at the foot of the hills is known, and which is Nepal territory, offers marked facilities for the disposal of stolen goods; and a bad character who is too hardly pressed by our police, moves into Nepal and bids defiance to the British authority, while he continues his raids in British territory.†

Though the Zamindars are moderate and liberal landlords, they are indirectly to blame for the worst feature that exists in the land system of this portion of the district, that of middlemen known as mustajirs. In one extensive zamindari through the efforts of an able European Manager, this system has been replaced by direct collections, to the profit both of the landlord and the tenant, and it is a matter of regret that the same plan is not adopted in all estates, and every effort should be made by district officers to induce the great landlords to introduce the change. Nothing can be worse for the landlord and the cultivator than the system of five yearly leases granted to mustajirs, as the mustajir offers a higher rent at each settlement, which he in turn recovers from the cultivators. The latter appear profoundly ignorant of their rights under the law, though being a prosperous class they are daily becoming more able to hold their own. The mustajir, in addition to looting the ryots to the best of his ability by enhancing rents, in which process he is materially assisted by the disinclination of the tenants to have their holdings measured, and their accepting enhancements in preference to measurement, has one or two other resources. For instance, he has a habit of taking full advantage of his temporary lease for creating

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\* [An offence specially dealt with in the Penal Code, sec. 215.—ED.]

† [And *vice versa*—see I. L. R. 6 Cal. 307. This frontier thieving and raiding led to the amendment, by sec. 9 of Act VIII of 1882, of the definition of 'stolen property' in s. 410, Penal Code—ED.]

holdings in his own name. Land is plentiful and he maps out for himself a fine holding at a nominal rent, which holding survives his temporary lease. Then he has an amiable way of ousting his landlord by the creation of miliks or rent-free holdings by a well recognized process, which is known as converting māl or rent-paying land into milik or rent-free. The mustajir being generally selected by the landlord from among the most clever and influential men, or briefly, a man whom the other tenants fear, is specially qualified not only to coerce his neighbours into paying rent, but also to turn the tables on his employer, and use his authority to make the tenants of his master acknowledge the mustajir as their landlord by right of an imaginary milik, or rent-free holding which he invents, and the rents of which he collects as milikdar. This milik remains in his possession for ever : a few civil suits, often collusively carried out between the Mustajer as milikdar and the ryots whose lands he is transferring rent free to himself, provide the unjust steward with documentary evidence of title which it is difficult for the Zamindar subsequently to upset. By this means many men of humble origin and little or no education have succeeded in creating for themselves very comfortable little properties.

In addition to the above the mustajirs who, as I have said, are generally free from the restraints of education and the self respect due to an inherited good position, are believed to occasionally assist criminals in escaping from the law, and of course, they often participate in the proceeds of crime.

Among other causes which have done, and are still doing much to improve the position of the tenant, is the introduction of jute which is largely grown in these parts, and is an extremely profitable crop. The tenants find an easy market for their crops some of which, especially the jute, are carried away by boat down the Mahananda river into the Ganges. It is hoped and expected that the railway which is under construction between Dinajpur and Katihar, and which will connect the Northern Bengal and the Assam Behar railways, will tap the boat traffic of the Mahananda at the riverside station of Barsoë ; and this will doubtless further stimulate trade and agriculture. Some produce of the North East of the district already finds its way by road to the Northern Bengal railway at Haldibari station. Another outlet for the produce of the whole Eastern side of the district is the Ganges and Dajeeling road. This road, which is over one hundred miles in length, is metalled throughout, and possesses interest on more than one ground. First it is remarkable as forming what must be one of the finest avenues in the world, from Cárhagolá

on the Ganges to Silligoori, a distance of about 120 miles. It is overshadowed by magnificent trees with scarcely an interval throughout, save when the broad waters of the Mahananda form a break in the communication, and in a few places where trees cannot be induced to grow. I think that even the opponents of the Hill Exodus might abate some of their animus if they would try a drive on this road; for had it not been that it was found expedient to remove the Government to Darjeeling every year, this thing of beauty would never have existed. The traditions attaching to the route are not without interest; the poor little underfed and over driven tattoos are no more, the ramshackle shigrams—as the species of ticca gharis that the tattoos had to drag were called—have disappeared; the skeletons of the latter, I believe, still haunt the neighbourhood of the Purneah Dāk bangalow. The various rest-houses on the road must have been occupied by the men who for generations guided the destinies of the province. How many sick women and children must have fled from death along this goodly avenue, possibly thinking it far too long, and failing to appreciate its beauties as they deserve to be appreciated! But we, who have leisure to admire it in the course of our residence in Purneah, are proud of it, and feel a sense of gratitude to the spirit of the Hill Exodus. There is one other thing of beauty to be enjoyed in this district which the above road calls to mind, namely, the distant view of the eternal snows. From the Sadar station, and also far more so from the Northern part of the district, the panorama is exceedingly fine, and though of course in some ways inferior to the views obtained at Darjeeling, exceeds them in the breadth of the range that is visible. Nor does the view lose so much as would be supposed in grandeur by reason of the distance; indeed, though the mountains are seen on a smaller scale, the idea of height seems enhanced by the distance. Travelling down the main artery, namely, the Ganges-Darjeeling road, we come to a very different country from that which we leave behind in Kissenganj: cultivation becomes rarer, and there are great stretches of waste land, partly due to bad soil and to the liability of the South to inundation by the Ganges and Koosi, partly to paucity of population. The people, too, are different and far less prosperous, though they too enjoy extremely low rents; but the land is less fertile, and the people themselves are less go-ahead and enterprising. Consisting as they do largely of very low caste Hindus and aboriginal races who have crossed over from Chota Nagpur and the Sonthal Pergunnahs, these people are not good agriculturists, and are almost without capital. The indigo interest, which has almost died out in the North of the district, still flourishes in the South and West, and it is probably

largely due to the indigo factories that so many Chota Nagpur families have settled in the South. The work of the factories is chiefly carried on by Dhangars whose ancestors originally came from South of the Ganges, though at present a large resident population of these races has sprung up, and it is no longer necessary to import them. The Southern part of the district is remarkably quiet and orderly and compares very favorably, from a police point of view, with the Kissenganj Subdivision.

Indigo has for generations past played an important part in the history of Purneah and, so far as I am aware, the circumstances of this industry in this district differ from those of any other district in Bengal. I can remember the time when the cultivation of indigo in the Patna division was condemned by some ardent reformers as unjust to the cultivator. I have been so long separated from that part of the country that I do not know whether these charges are still made, but I can confidently say that such a charge could not be made against the indigo industry in Purneah. On the contrary, so far as I can learn, indigo cultivation is extremely popular with the cultivators, and during the past three years I have not heard a single complaint against any of the old established factories of the district. Experience has shown that the ordinarily patient, law-abiding cultivator of Purneah can turn on occasion, but neither by lawless violence nor by a resort to the courts have I ever found the indigo cultivator of Purneah set himself in opposition to the old planting families of the district. This I attribute to various causes, among which may be mentioned the kindly and patriarchal relations that are maintained between these old Purneah planter families and the ryots. Such planters are, I believe, the ryots' best friends; they assist him in his difficulties with advice and money, and are deservedly looked up to and respected for their fair dealing and kindness. Added to this, the system itself is a sound one, and no coercion is necessary, as it pays the ryot to grow plant to sell to the factory in whose dihat his lands lie. Most of the indigo plant produced for manufacture is grown by ryots on their own lands, the plant being delivered at the factory and paid for after being measured by means of a chain. That the rates paid are remunerative is shown by the circumstance that a ryot very often plants a great deal more land with indigo than he has covenanted to do. He receives an advance of two rupees a bigah for perhaps 10 bigahs, and of his own accord sows 20 or more bigahs, which seems to prove that, in these instances at least, the ryots derive more profit from disposing of an indigo crop to the planter than from raising any other produce. The only fact



that differentiates the system from a theoretically perfect one, is that the dihat system exists, and that each planter enjoys a monopoly of the right of contract for supplying indigo within certain well recognized boundaries, which boundaries are generally faithfully observed. A ryot who raises indigo must deliver it to the planter within whose dihat or monopoly-area he holds his land, but against this it may be said that the planters are at perfect liberty to enter into any agreement for their common benefit, and no ryot is in any way forced to cultivate indigo; while those who elect to do so, enter into a regular agreement with the planter and accept an advance from him.

The monopoly, if monopoly it can be called, rests on the good faith of the planters among themselves; it is not that a ryot cannot sell his indigo or demand an advance from a planter other than the one in whose dihat his land lies, but that no other planters would buy his produce or give him an advance; so that if the system is not theoretically quite perfect, in practice it works well. Such disputes in connection with indigo, as have arisen within my experience have chiefly been due to misunderstandings between planters and landholders.

In recent years no great fortunes have been made in indigo in this district, which may be attributed to the factories being on a smaller scale than those of the Patna division, many of them only producing 300 or 400 maunds of dye. The only exception to this rule being the Gondwara concern which, in the present year, produced 3,500 maunds in an unusually favourable season.

Machinery has replaced manual labor in nearly every factory in the district, and two Purneah planters claim to have introduced valuable improvements in the process of manufacture. The patent boilers and lever presses of Mr. F. Shillingford of Kholasi are well known, and Mr. Hill, an Assistant in the Gondwara concern, is the originator of the idea of bruising the plant before steeping; it is even alleged that the first wheel-beater ever erected was used in this district at the Dilowri factory by the late Mr. Cruise in the year 1844. It cannot be said, therefore, that the Purneah planter has not kept pace with the times.

Indigo seems inseparably connected with sport, and time was when Purneah was famous for its tiger shooting. That this is no longer the case is not due by any means to a falling off in the sportsmanlike ardour of the planter, but rather to the fact that in past times they fired too straight, and that very few tigers are left to shoot in the South of the district. Comparatively young men have contributed largely to this extermination, and the name of Shillingford is still borne by some

of the first sportsmen of Bengal. A visit to the hospitable Kholasi factory where some hundred or so tiger's skulls may be seen, will satisfy any one of the claims of this family to the highest rank among tiger-slayers. Of other kinds of sport there is no lack. Deer are still plentiful in the great waste grass lands, wild buffaloes are to be had in the Kosi *dearah*, and wild pigs abound in many parts of the district; of birds, florican are not uncommon, and duck, snipe, and partridge are abundant.

The physical formation of Purneah is such that it can face periods of scarcity with greater confidence than more wealthy districts; though it may be described as generally level throughout, boasting of one hill about 250 feet high, this level is really diversified by old river beds and other depressions, which are so numerous as to be classified as lowlands, as distinguished from the somewhat higher lands around. In years of drought these lands may be relied on for a crop, and though they suffer in years of heavy rain, as they form catchment basins, in such years the highlands bear a good crop, so that whether there be too much rain or too little, some portion of the lands bears produce. I believe that the Purneah ryot is always prepared for the loss of more or less of his highland or lowlands rice, and to say that in a year he has not reaped a 16 anna crop is misleading, if 16 annas applies to the area actually sown. So far as my experience goes, he is prepared to lose at least 4 annas of his sowings, and a good crop on 12 annas of the area sown would represent a bumper crop. In the South the rivers rise in August or September, and inundations often destroy what the rain has spared. These inundations materially affect the indigo interest, the object of the planters being to manufacture before the rivers rise. As the crop that is reached by the inundation perishes, the planter, like the ryot, prays for a late rise of the rivers. As another safeguard against famine may be mentioned the fact, that the rice crop is by no means the only support of the people; in the West of the district wheat, oats and barley are extensively raised, and the cold weather sees besides these a large area under pulses, and oil seeds. The ryot here has many strings to his bow, and it must be a very unusual year when he cannot make a fair profit out of his land. The condition of the landless poor is not so good; wages are low, and even in ordinary years they pass through periods when work is slack, and feel the pinch of poverty. When prices rise, the evil is necessarily aggravated, and it is with regard to this class only that a season of scarcity and high prices might justify some anxiety. But there is this to be said with regard to the poorest classes of this district, that they never emigrate, and that they

are very seldom seen on the railway works now in progress, which shows that whatever privations they may suffer, they prefer to bear them rather than resort to either of these remedies.

Another well defined area, differing from the rest of the district in every way, lies on the West along the river Kosi. Here the Mithila Bráhmaṇ is a conspicuous person, with his quaint *pagri* of which a fold projects in front in a fashion which I think is peculiar to him. He generally answers to the name of Jhá and values himself very highly; he is a very strict Hindu, and altogether strikes one as a member of a distinct and singular race. He possesses little affinity with the Missers or Tewaris of the Patna division on the one hand, and none with the Bengali Bráhmans on the other, with the exception that he makes use of a character in writing which is nearly identical with the Bengali. For the rest he appears well able to hold his own, and has always been dealt with indulgently by his landlord, and enjoys considerable prosperity.

The Western portion of the district which borders on North Bhagulpur is chiefly in Pergunnah Dharmpur which is the property of the Maharaja of Darbhanga. It is said to have been very heavily assessed with Government revenue at the time of the Permanent Settlement, and it is certain that for a number of years the Maharaja had to remit money from Darbhanga to meet the Government revenue of his Purneah property; though under the present system of management this has been avoided. Dharmpur claims to be the cradle of the House of Darbhanga, but whether the claim is acknowledged, I am unable to say. Physically this portion is divided between the wheat land of the dearahs (riparian tracts) and extensive grass wastes which form a most valuable grazing ground not only for the cultivators there residing, but for the graziers of this and adjoining districts. Resident ryots apparently have enjoyed free grazing from time immemorial for all their cattle excepting buffaloes. Some three years ago an attempt to levy grazing fees from the cattle of others than local ryots led to a serious disturbance, and the local men took up the matter as a religious question, claiming immunity for the cow not on their own account only, for this they already enjoyed, but for all cows as such. The river Kosi which forms the Western boundary of the district, carries much of the produce down to the Ganges. It is, however, a dangerous river for boat traffic, and it is to be regretted that no better mode of transport exists. It is also an excessively mischievous river, being much addicted to changing its course, and whenever it does so, it leaves a sandy bed behind which does not admit of cultivation, and the new bed is of course so much lost to the cultivable area of the district. The overflow

of other rivers is fertilizing, but that of the Kosi is destructive, as it leaves a deposit of sand which renders the land more or less sterile. I think it possible that at the time of the Permanent Settlement, when the revenue which is now found to weigh so heavily on Pergunnah Dharmpur was assessed, the Kosi had not done the amount of mischief that it has done since, and that the pergunnah was a more valuable property then than it is now. The Behar and Assam Railway which is designed to facilitate emigration from the overpopulated districts of Behar to under-populated Assam, has to cross this river at the extreme North-West corner of the district at a place called Náthpúr. The difficulties to be encountered are likely to be considerable, as miles of sand with streams intervening at intervals have to be passed before the main stream is reached, and the whole of this sandy waste goes under water in the rains: the difficulty, I understand, will be met by the construction of a temporary line over the dry river bed, which will be taken up before the river rises, while a steam ferry will ply across the main stream. The advantage of this line to emigrants from Behar will be enormous, as, instead of travelling by a roundabout route as at present, they will reach their destination by means of a direct railway through Purneah, Dinagepur, and Rangpur.

A remarkable circumstance about Purneah is the entire absence of emigration and immigration. The former may, I think, be attributed to the general prosperity that prevails; but why people seeking fresh homes should travel so far as Assam whilst Purneah itself is in many parts thinly populated, requires explanation. The only reason that I have ever heard assigned is, that the up-country man has a peculiar dread of the climate of Purneah, which is summed up in one of their proverbs: "Na zahar kháo na máhú kháo, marna hai to Purneah jáo."\* The climate certainly has a very bad name among natives, and, especially among Bengalis; but the European enjoys comparative immunity from fever; he does not escape, it is true, but his lot cannot be compared with that of the natives. Of the suffering of the agricultural classes we know little but what we can gather from the somewhat imperfect mortuary statistics, but I do not think I overstate the case when I say, that the educated native subordinates suffer so much at a certain season, that the office machinery is generally working half-power for about three months in the year. Absence on sick leave has to be freely granted, and casual leave cannot be restricted to fifteen days.

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\* Nor venom take nor poison, No!  
If you would die, to Purneah go.

The civil station of Purneah itself is remarkable for four Christian burial grounds, the Roman and English Churches having two apiece. Two are in the former civil lines, and two in the present station; there are, however, no monuments of conspicuous interest. The site of the old civil station was found unhealthy, and so it was transferred to its present position, which, however, is not remarkable for its salubrity. There is no building of any interest in the new station, and it is distinguished, above all civil stations I have ever seen, for its straggling proportions. The builders of the station had quite a passion for elbow-room, and it is almost necessary to lay daks when you go out calling. One house drifted quite out of the station in order, I believe, to escape Municipal taxation, but the Municipality opened its generous arms wide and took the wanderer back within its enlarged boundaries.

A few of the interesting spots in the district deserve mention. Close to Monihari, the Southern terminus of the Behar-Assam Railway, stands our only hill; it consists of an inferior kind of limestone which is not good enough to be used for building purposes, but makes excellent metal for roads. It would appear that formerly some Hindu temple existed on or near this hill, as some very beautifully carved slabs of a black stone have been found near it. At present the summit is occupied by what appears to be a Mahomedan grave, but the superstructure is rapidly falling to decay, and if the quarrying continues, the repose of the deceased saint will, I fear, be disturbed. Old carvings are very rare in this district; with the exception of those found at Manihari, the only one worthy of notice was found by me at Khagra near Kisenganj, whence, as it appeared to be unappreciated, I removed it to headquarters and deposited it near my office. Possibly the pious Brahman who found it there thought a miracle had been performed by the sudden appearance of this deity; at any rate he was not slow to profit by the occasion, for he propped him up with a bamboo, and made him a garland of marigold, and ornamented him with vermilion, and then demanded a fee of every successful party to a case in the Criminal Courts. This god, whom I cannot get identified, has lost four arms and a nose, but the carving is extremely good, especially in the details, and is quite a work of art.

Near Manihari is the village Baldiabari which was the scene in 1756-57 of a great battle between the infamous Sirajuddowlah of Black Hole notoriety and Shaukat Jang, Nawab of Purneah for no less a stake than the Soubahdari of Bengal, in which the latter was completely defeated.

The town of Kusba, six miles north of Purneah, is the centre of the grain trade of the district, and affords a striking instance

of the conservative character of the Indian trader. The reason for the place being originally selected as a grain depot and market, was obviously the same that determines such matters throughout India and the world, namely facilities of transport to and from the market. These, in the case of Kasba, were formerly afforded by a river, but this river has long since silted up, and yet trade never left the place, though other sites affording the requisite facilities might have been readily found. Providence has now rewarded the constancy of the merchants of Kasba to their old town, by sending them the Assam-Bihar Railway, which supplies the facilities which this important market has so long been devoid of.

In the neighbourhood of Kissenganj subdivisional headquarters is the suburb of Khajra, which is the seat of Syed Ata Hussein, on whom the title of Nawab was recently conferred by the Government. This gentleman is possessed of a pedigree worthy of a Welshman, which shows he is the descendant of a Persian follower of the Moghul Emperor. There can be no doubt that the large Surjapur property has remained in this family for over three centuries, and that the ancestors of the Nawab held high office under the Moghul Government, is established by original sanads which possess great antiquarian value. The family finds mention in the *Sair ul-Mutákharrín*, and there can be little doubt as to its antiquity. The Nawab has compiled a history of his family from an ancient manuscript in his possession, the language of which is exceedingly quaint. It relates how Rajah Syed Khan, third in descent from the founder of the family, Syed Khan Dastúr, on receiving his death blow from an assassin, "Gazab nák hokar usi hálat men jo ek tamán-chá us shagí ki munh par mára sadama se uske wah nutafa be waqt dákhil Jahanam hua" (being enraged, in his wounded condition, gave such a slap in the face to the villain, that that untimely spawn was by his blow consigned to hell). The Persian idiom, however, is more racy than I can show by translation. Syed Raja Khan was evidently a powerful man, and his descendant is strong in loyalty and benevolence.

The curious old fort of Jelálghar, which is only 13 miles north of Purneah, is said to have been built by an ancestor of the Nawab, Jalaluddin, the second in descent from Syed Khan Dastúr, and there can be little doubt that this fort was one of the boundary strongholds of the Mahomedan power against the hill tribes, with whom a constant border warfare seems to have been carried on. It is noticeable that this fort is a long way South of the present boundary of the district, and this shows that the Mahomedan occupation must have been gradual. Purneah at one time boasted of a Nawab who held sanads direct from the Moghul, the last of these rulers was Nawab

Mahomed Ali Khan, who was succeeded in authority by a servant of the East India Company, Mr. Superintendent Ducarrel. The family at present bears no title, and the property belongs to Bibi Kamarunessa who is one of several Ranis by courtesy in this district. The estate on the death of this lady's husband, Syed Reza Ali Khan Bahadur, has come under the Court of Wards. The history of the late Syed Reza Ali is not without romance. It is reported that he came to this district from Mozuffernagar in the North-West Provinces in an impecunious state and accepted service under his future wife's father. The young lady was pleased with his manly North-Western exterior and conferred on him her heart and hand, and, what perhaps was more important, an income of two lakhs of rupees a year. Syed Reza Ali spent his newly acquired wealth right royally on occasion. One of his last acts was to agree to build a serai at a cost of over 30,000 rupees, which work will now be taken in hand under Government direction.

I have now touched on many points illustrating the daily life of the district, and in parting with the subject, I desire to pay the highest possible tribute to the general tone of all classes in their relations with the official class. I believe that a more courteous, docile, and orderly people it would be extremely difficult to find ; in fact, the great danger that besets a district officer here is, that he may be spoiled by having too easy a time, and unfitted for a more turbulent charge. The spirit of obedience to authority survives here, and this does not appear to me an unmixed evil : a little bucolic simplicity has its advantages from an administrative point of view.

H. G. COOKE,

*District Magistrate of Purneah.*

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ART. II.—THE RELATIONS OF MISSIONARIES  
TO GREAT EUROPEAN AND ASIATIC  
GOVERNMENTS.

A PERIOD has arrived in the history of missions to the non-Christian world, when it is as well to reflect calmly, whether it be wise or just, or consistent with the principles of the religion which it is our object to extend, to do what may be generally called "lean on the arm of the flesh," and permit missionaries and their converts to appeal to treaties, and solicit the protection of the Powers that be. And it is more particularly necessary for British missionaries to reflect upon this subject, as it is not the British religion which they are preaching but the Christian, and one that is equally true whether the message be delivered by a British missionary, who has behind him the force of a giant, or by the Swedish, Danish, or Swiss missionary, who have to depend only upon the goodness of their cause and the protection of their Divine Master.

I purposely omit any allusion to any particular Societies, or particular instances of appeals to the British Government. Missions to the natives of Asia and Africa and Oceania are still, as it were, in their infancy, but may be expected to assume proportions in the next generation of a magnitude far beyond the wildest dreams, and it will be an unmingled blessing to them, both in their temporal and spiritual matters, that God should have put it into the heart of Christian nations to send out the very salt of their people to settle amidst the heathen, not for any purpose of commerce or conquest, but from motives of pure benevolence. Now missions may be planted, and as a fact, have been planted in countries where political circumstances represent two very distinct varieties:—

I.—Where the political power is entirely in the hands of a civilized European Government totally independent of foreign control.

II.—Where there is a Government established upon a basis of Asiatic civilization, nominally independent, but circumscribed in its action by treaties, and the powerful logic of ships and gunboats of foreign nations.

It is no longer a matter of surprise to me that Russia, Austria and France, Italy, Spain and Portugal, object to the appearance of a missionary in their dominions or their colonies. The Governments of these countries have only to mark the conduct of the missionaries in British India, China and Turkey. The



most mistaken assertions are made in the most unscrupulous way. Every travelling grievance-monger quotes a missionary as his authority. Holding as we do the empire of British India with a very small European army which has to be renewed within a fearfully brief period, and the control of which is an anxious problem, it might have been imagined that those who live under the protection of that army would have been cautious in their mode of making statements. I can recollect the time when a portion of the British army, the European soldiers, mutinied upon a purely regimental matter, and the authorities were in a frightful dilemma: what would become of the Missionaries, their schools, and their chapels, and converts, if the British soldiers, in resentment for the hard things said by missionaries about them, were to mutiny: there must indeed be a deep feeling of indignation throughout military circles, especially when an American citizen at a great meeting in Exeter Hall is put forward to second a resolution condemning the British army as vicious and disreputable, and to state broadly that the conduct of the Government of India was worse than the Bulgarian atrocities of the Turks, and that the British deserved to be turned out of India bag and baggage. A missionary audience received these remarks with applause, and a paid servant of the British state, Sir Arthur Blackwood, put the resolution thus supported to the meeting and was not ashamed.

The empire of British India presents a unique instance of the first variety. There is no country in the world, and never has been in the annals of history, where such entire liberty is given to the preacher of spiritual truths either by word of mouth or by printed matter. No permission is required or asked for. Protection of person and property, absolute and unrestricted, is conceded. Property in land may be purchased or leased; no law of mortmain, no legal incapacity of any kind exists; if the Mahometan, or Buddhist, or Brahmoist were to set on foot missions, the magistrate, Gallio-like, would care not for such things. On the other hand, civil and religious liberty is absolutely guaranteed to all classes: so long as the peace is preserved, and the rights of other subjects are respected, religionists of all kinds may erect places of worship, may ring bells, and fire guns, lead out long processions, and go upon distant pilgrimages without let or hindrance. If, however, the preacher of one set of spiritual doctrines should attempt to erect a place of worship or assembly in offensive proximity to that of another; if any act of illegal provocation or insult to the feelings of any portion of Her Majesty's subjects were to be committed under the guise of religion, the Government would promptly interfere to anticipate the destruction of property or the shedding of blood. To the

honour of Christian Missionaries in British India be it said, that no such act has ever been attempted by them; no improper applications to a magistrate are made, or if made, would be attended to; in only one instance do I recollect a case of a chapel being ordered to be removed by the Government, because it was erected on the edge of a sacred tank.

In such a Utopia of missions are the missionaries satisfied? Not in the least! *Quo plus habeant eo plus cupiunt.* Not even the Government of China or Turkey has been so unsparingly abused by the missionary as the just and impartial Government of India, which is represented in its Governors, and Councils, and men in authority, by Protestant, Roman Catholic, Jew, Hindu, Mahometan, and Parsi members, not one of whom has ever been known to deviate from the line of strict impartiality in his official position. The fact is that the Protestant missionary in his heart of hearts desires more than a free field to be conceded to him; he asks for a neutrality in educational matters benevolent to his way of thinking, but which he would resent if conceded to the way of thinking of others. If the Jesuits got round the Government, their influence would be denounced. The object of the Government of India is to retain the country in the peaceful enjoyment of civil and religious liberty; the missionary in India should consider the circumstances of other heathen countries, and so use his own Christian privilege as not to interfere with the privilege of others: if we lost India, we should lose the greatest field for missions that the world ever saw.

The liberties taken by some Missionaries are extraordinary. An officer, high in employ, sent me a copy of a letter which I have before me, actually written by a missionary to the Prime Minister of the Sovereign Prince within whose territory he had with great difficulty obtained leave to open a hospital, charging him with sending off boat loads of people to be got rid of feloniously during the night: he admits in the letter that he had no proof, but could not help thinking that there was truth in the report. In a lofty style he writes, that he cannot pass over the matter in silence until full inquiry is made, and he (the missionary) is satisfied that the rumour is false. The Sovereign Prince ordered an inquiry to be made, and naturally asked for the names of the informants of the missionary, which he declined to give, and the matter dropped. The question naturally suggests itself, who made the missionary ruler or judge in such a matter? Can it be a matter of surprise if a Native Sovereign in India does his best to keep a missionary out of his territory?

A question of rent arose between the tenants and landowners in a province of India. It would hardly be expected that a

missionary would take a leading part in a kind of agrarian war. My own opinion was that his view of the case was the right one, but it was not right for him to have any view at all : in fact, he was acting precisely as the Romish priests are acting in Ireland now, siding with the tenants against the landowners. He became very popular with one party, but so unpopular with the other, that on a charge brought he had a sentence of one month in gaol. Now all this must disturb the quiet routine of Gospel preaching, which is the only cause of the existence of the missionary. So long as the British Power is strong and unshaken, India has been open to all comers, and no passports or permissions to sojourn are required. But in time of peril like the Mutinies, passports are required from all foreigners. 'An amusing case occurred in 1857-58 : the American missionaries, as a matter of form, were called upon to take out passports, and one of them declined, thanking God that he was an Irishman ! This might have surprised any one not familiar with missionary life. In a late visit to Damascus I find that the leading missionary of the Irish mission was an American, and in Egypt one of the leading missionaries of the American mission was a Scotchman.

Returning to the main subject, it cannot be too strongly impressed upon missionaries, that any conduct on their part calculated to weaken, or oppose, or bring disrepute upon the Government of India, is suicidal to their own prosperity. The old East India Company is blamed because it would not allow missionaries in India in the beginning of this century. It is clear that it would not have built up the Empire, had indiscreet missionaries been at large before the provinces were well in hand ; and when the power of Great Britain in India becomes weakened, the greatest sufferers will be the missionaries and the Christian congregations. The Roman Catholic missionaries have given no trouble in India ; they have been chiefly Italians or Portuguese. The Protestant missionaries have been exclusively German, American, or British.

'In South Africa a French Protestant mission settled in Ba-Suto Land. I understood from the late Sir Bartle Frere that much of the trouble in one of the wars in the Cape Colony arose from the conduct of the French missionaries. At the Congress of missionaries at Mildmay in 1878 (Report, p. 86), I read :

Hence, when you Englishmen in 1852 came to fight against the Ba-Suto, *we fought against you*

At the Congress of Missionaries in Exeter Hall in 1888, the Directors of this French Mission justified what they called "missionary patriotism" ; they took a pride in following a policy of direct *hostility to the British Government*, and it was difficult to see how this was consistent with the position of a

foreign missionary in British territory. The British and Foreign Bible Society in Christian love supplied them with a translation of the whole Bible in the language of the tribe: the President of the French Republic bestowed upon the Chief Director the Legion of Honour for "advancing French interests" (Heaven help the mark!) in British colonies. The British take these matters coolly as cosmopolites, but the Germans very naturally rigidly exclude French missionaries from their colonies.

How do the French act in their own colonies? The French missionary, whether Protestant or Roman Catholic, wherever he goes, puts his nationality offensively forward: the Governor of the French colony makes the colony too hot for missionaries of another nation. In Algeria and Tunisia the British missionaries have a precarious existence: the Bible Society, however, is tolerated. In Senegambia there are none but French. From the Gabún colony south of the equator, the American mission, which has done so much good, is being gradually pushed out. In Melanesia the British missionaries are being expelled from the Loyalty Islands, and are threatened in the New Hebrides: one of the chief objections to the French occupation is, that the free action of the missionaries will be jeopardized. In the Society's Islands the French occupation has driven out, or is driving out the British mission which has raised the inhabitants from the position of savages in which Captain Cook found them.

Germany has only lately founded colonies or subject states, and sets about missions in a way peculiar to herself. One of the most experienced German writers on missionary topics thus expresses himself:

The opinion of the German African Society with regard to Missionary Societies, is that they are not unselfish attempts to spread the Gospel, but merely handmaids to colonial politics; a cow to give milk to the mother country.

The general conception seems to be as follows:—

I.—Only German missions in German colonies.

II.—The missionary is to be the pastor of the German colonist, as well as evangelist of the heathen.

III.—He is to work solely for German interests, and to make his converts good German subjects.

IV.—He is to teach the natives to work, by giving them an industrial education, as well as spiritual: the motto is, "work and pray, and pray and work:" but the prayers must be in German, and the work for Germans.

V.—No other language to be taught but German. In the Kamerúns the English language is to be trodden down, and German state instructors are sent to teach German.

The first action of the Germans at Ebon in the Marshall Islands in Mikronesia was to fine the native pastor of the American mission 2,500 francs for wishing to protect the natives against the deceit of foreign missionaries. In the Kameru where the British Baptists were got rid of, the German Government desired the Basle Missionary Society to accept the task because it was composed of German elements, and consequently sympathetic to the interests, political and economical, of Germany. To this the Society bravely replied, that it always maintained a position above all political considerations, and would never depart from it, all that was asked being liberty of action.

At present in Eastern Equatorial Africa there are two Protestant British missions within the sphere of German influence ; but to mark the cynical view of the German Government towards all missions, a German Roman Catholic mission has been specially invited as a kind of equipoise to the existing French Roman Catholic mission, and a German Protestant mission as supplementary to the two British missions.

It appears that the Government of the Netherlands, a Protestant country, to a certain extent connects the State with missionary effort in her Asiatic colonies, and looks upon them as political engines. Spain has hitherto prevented any Protestant influence from penetrating into the Philippine Islands, and caused some trouble to the American missionaries in the Caroline Islands in Mikronesia. It is recorded, that the American board complained to their own Government of the deportation of their missionary from the island, that the United States Government sent a man-of-war to the island, and that it was considered a great point gained that "American missionaries were cared for by their national authorities," and that the Captain of the man-of-war in a letter advised "all Americans, *whether Christians or not*, to get down on their knees and return thanks for "having been born in free America." When it is recollected that these missionaries were in the ancient colonies of Spain, that the right is admitted of every Sovereign State to deport aliens at their will and pleasure, and that a man-of-war of an alien State was sent to encourage alien missionaries apparently against the constituted authority; it may be a source of wonder how the Gospel of Peace can be preached under such circumstances, and no wonder will be felt if the admission of alien missionaries is for the future steadily opposed by second-rate powers like Spain and Portugal. In British India the American missionary is welcomed according to the policy of the British Government, and in recognition of the personal qualities of the missionary ; yet if the missionary disobeyed the legal orders of the constituted authorities, I doubt whether

the appearance of the United States ship "Essex" on the Hooghly would have saved him from punishment. I deeply regret the interference of ships of war, or gunboats, or the civil power, in the affairs of missions, and shall never cease denouncing it, whether those ships are British or American, or French, or German, or Spanish, or Portuguese.

The colonies of that miserable State, Portugal, remain to be noticed. On the west coast of Africa, the authorities of the colony of Angola appear to have adopted a friendly attitude to the American missionaries who penetrated through the colony to Bailundu. No doubt Portugal has visions of spreading across the continent to Mozambik, and there may be troubles in future. On the east coast the attitude of Portugal is hostile to the Protestant Missionaries on Lake Nyassa: indefinite claims of sovereignty are made, and the desire is expressed to extend the frontier of the colony of Mozambik so as to include that lake. That may or may not be, and the missionaries must take their chance; the British Government neither can nor will give them any help. Like the other British missionary societies which have established themselves on the central equatorial lakes, they must rest upon the Divine aid only, and their agents must be prepared to die at their posts. But the missionary interest is not the only one on the water of the river Zambézi and its confluent. Great Britain is a protector of the vast territories of Ma-Tábele-land south of the river, and can never allow a petty state like Portugal to put a cork into the mouth of one of the great arteries of Africa, and, as the Foreign Secretary lately informed a deputation, a ship of war in the interests of freedom, of commerce and navigation, will soon open the mouths of the Zambézi to ships of all nationalities.

I pass now to the second variety of circumstances where there is a Government established upon a basis of Asiatic civilization, nominally independent, but circumscribed in its action by treaties, and the hard logic of ships and gunboats. China and Turkey supply conspicuous instances, and both countries are magnificent fields for missions.

I have before me a little volume, published at Rome, called *Violation du Traité de Peking*, which sets out the Roman Catholic grievances, of which France is the champion. Another small volume, *Aperçu historique sur la Chine*, also published by the Propaganda, sets forth the long history of missions to China, the martyrdoms by beheading and strangling, the imprisonments and the spoiling of goods, which have rendered the Roman Catholic mission work of that land illustrious. Its staff a few years ago consisted of twenty-one bishops, two hundred and seventy-eight European missionaries, two

hundred and thirty-three native priests, scattered in every part of the Chinese dominions, amidst half a million of converts. The Protestant missionaries number six hundred, but do not form one compact body, and upon the subject now under discussion there exist two distinct parties.

The Roman Catholic mission, with a strange inconsistency, is the loudest in its appeals to the eternal principle of religious liberty guaranteed by treaties and invoked by consuls. Allusion is made with complacency on the one hand to a pagoda being converted into a church, whilst no words are sufficient to denounce upon the other, the injustice of the secularization of a church. Emperors are described as having been killed by lightning, and cities destroyed by earthquakes, to evince the anger of an outraged God. It seems stranger that priests, with such a formidable arsenal in reserve, should regard as of such paramount importance the insignificant treaties of Peking and the French consulate.

The French Government has ever put itself forward as the protector of religion in China, and the French have openly asserted in their own praise, that while other nations, especially the British, warred with China in the interests of commerce, they warred in the interests of religion. Lamentable indeed as have been the British wars, still it would seem almost better to force commerce into a country at the point of the bayonet than to force missionaries into it after the same fashion. In the one case we have at least but a simple evil, in the other a compound one, and what might have been a blessing becomes a curse. We may rely upon it, under all circumstances, gunboat commerce is a less evil than gunboat Christianity. It is well known that it is only in the French copy of the treaty that exists the well-known religious clause which could only be extended to British subjects by the application of the "most-favoured nation" clause. Successive British ministries have refused to adopt the French clause as the measure of our treaty rights in the matter of missionary work. One of the chief occupations of the French Legation consists in pressing claims for redress, and making reclamations on behalf of missionaries. It is always in trouble, and with any but satisfactory results; and it is this constant source of trouble and anxiety, and the difficulty of giving effective protection in the interior, that has caused the indisposition of the British Government to press for similar rights.

It is notorious that the Chinese Government, anxious to get rid of the semi-religious, semi-political claims of France, offered to accept the Pope as the representative of all the Churches of the Roman Church, and the Pope was quite ready to accept the duty: but France would not agree to it, and by threats of

the repeal of the Concordat in France, compelled the Pope to withdraw from this arrangement: the Chinese Government in consequence issued a proclamation of Universal Toleration of the Christian religion, thus reducing the possibility of French interference to a minimum.

The French Government urges the cases of the Roman Catholic missions only. I have yet to learn whether Republican France would extend its protection to French Protestant missions also. Under the ægis of Great Britain are many different churches, and missions, and no one missionary body has a right to go up to the Foreign Office as a general representative of Protestant missions in China. It is as well to hear the views of one Missionary Society on the question:—

RELATIONS TO GOVERNMENTS.—Too great caution cannot be exercised by all Missionaries residing or journeying inland to avoid difficulties and complications with the people, and especially with the authorities. All the agents of the Mission must fully understand that they go out depending for help and protection on the LIVING GOD, and not relying on the arm of the flesh. While availing themselves of any *privileges* offered by the British or Chinese Governments, they must make no *claim* for their help or protection. Appeals to consuls to procure the punishment of offenders, or to demand the vindication of real or supposed rights, or indemnification for losses are to be avoided. Should trouble or persecution arise inland, a *friendly representation* may be made to the local Chinese officials, failing redress from whom, those suffering must be satisfied to leave their case in God's hands. *Under no circumstances must any Missionary on his own responsibility make any appeals to the British authorities.* As a last resource, the injunction of the Master can be followed, "If they persecute you in this city, flee ye into another."

Those engaged in the Lord's work must be prepared to "take joyfully the spoiling of their goods," and to "rejoice they are counted worthy to suffer shame for His name." Let them be imbued with the same spirit as Ezra (Ez. viii. 21—23).

In preaching and selling books, the collection of large crowds in busy thoroughfares should as far as possible be avoided; and where it can be done, any difficulty should be arranged without reference to the local authorities. The carrying about and display of unnecessary property is also to be deprecated; it may lead to robbery and loss, in which case no *demand* for restitution should be made. As little intercourse with local authorities as possible should be attempted, and if their help on any occasion become necessary, it should be asked as a favour, and never demanded as a right. On no account should threatening language be used, or the threat of appealing to the consul be made. Great respect must be shown towards all in authority, and must also be manifested in speaking of them as is required by the Word of God.

Where prolonged stay in a city is likely to cause trouble, it is better to journey onward; and where residence cannot be peaceably and safely effected, to retire and give up, or defer the attempt. God will open more doors than we can enter and occupy. And in conclusion, the weapons of our warfare must be *practically* recognized as spiritual and not carnal.



How noble, how true to Bible teaching, how expedient even from a worldly point of view are such sentiments ! Nor is it an empty boast. In 1879 Lord Shaftesbury quoted with satisfaction the statement, that no missionary of this Society made any assumption of national superiority, or any undue insistence on treaty rights, and he remarked on the contrast which this offered to the old scandal, that "*with the Missionary there was always the inevitable gunboat*" A missionary who had traversed China on foot and unarmed, remarked that all application to the British Foreign Office, or pressure upon the British consul, with a view of intimidating the Chinese authorities, would be a mistake, would do no good, and probably do great harm. It may be accepted as a fact, that the Chinese authorities are quite impervious to any argument, unless they anticipate the will and the means of the consul to enforce redress, and this means to move up gunboats. It is of no use for missionaries to protest, that they do not wish to learn on the arm of the flesh or seek the aid of gunboats ; they must understand that there is no medium. If they could persuade the Foreign Office to set the ball rolling (which they will never succeed in doing), it must mean the application of threats and possibly bloodshed. Any amount of suffering or loss of property were preferable to this sad alternative.

The sentiments expressed by this Society are shared by other missionary societies in China. During the whole course of the history of some missions, the missionaries have never requested the aid of their Government ; their only weapon has been kindness and a spirit of conciliation. And this line of conduct is more especially necessary in China, where other questions have been so inextricably mixed up with the policy of the British Government. The missionary might suffer temporary injury and discouragement, but in the long run he would be the stronger by letting the people and authorities feel that, as missionaries, they were not connected with the compulsory measures and the over-bearing provisions of treaties whose stipulations rankle in the breast of every subject of that ancient kingdom.

The subject is of such importance, and I am so desirous that young missionaries should understand the problem, that I quote extracts from the Secretaries of some of the leading missionary societies :

I discourage our missionaries from holding property in China outside the Treaty Ports, and then only the houses they occupy. When natives were willing to make over places, and even family temples, to the mission, I always urged them to leave such properties in native hands. In all our missions we try to avoid all reference to the British authorities : they hamper more than they aid.

There are peculiar difficulties in one province owing to the policy and conduct of the Romanists : their constant reliance on the Civil Power, and frequent unhappy use of it, have the tendency to embitter the heathen population, and also to encourage injustice and a singular kind of arrogant *terrorism among those who become Christians.*

I am persuaded that official remonstrances do not help in the long run. Patience is our strength when we are in the right.

During the whole course of the mission's history, our agents have made their way, and found safety and acceptance among savage tribes quite independently of any aid from gunboats or otherwise from Government. The power which they exercise is that of kindness, and an evident desire to deal justly, and to benefit them. Their response has almost always been one of confidence and friendly bearing, the healthful product of kindness, and not of fear of a gunboat in the background. Treaty rights invoke treaty wrongs, to the injury of the people, and the hindrance in the most fatal manner of missionary effort.

It is a common expression at missionary meetings, that God's guidance is prayed for and sought for. God's mercies are recognized in success, and traces of His controlling wisdom should be sought for in disappointment and failure. God speaks no longer in dreams and visions or by the voice of heavenly messengers, but His guidance can be seen by those who seek Him faithfully in the persecution and the destruction of churches, in imprisonment and martyrdom. By these is the sincerity of the converts tested. Both China and Madagascar have passed through this ordeal. If we use the arm of the flesh to combat those reverses, we may haply be found fighting against God. Strange to say the same reports which tell so sadly of the suffering of the missionaries, tell also of the steadfastness of the native church and of additions to its members. We are apt to set too great value on the bricks and mortar of our buildings. What matters it whether they are consumed by a fire, as at Hakodati, or by incendiaries as at Fu-chow? We must recognize the chastening hand of the Lord in both events and be thankful.

In one district there had been persecution ; Several converts were beaten, and one or two killed, others imprisoned and tortured ; these last were released at the earnest requests of the consul, who however had no lawful grounds of interference. These troubles may prove beneficial in keeping the Churches clear of increase members, and by giving the converts clearly to see that foreigners cannot protect them either from their own people or officials, and may teach them to look more directly to God and to trust in Him alone. It is profitable to read the accounts of the sufferings and the steadfastness of the early Christian martyrs in the first and second centuries, and the persecution of the Church of Rome in the fifteenth and sixteenth. The blood of the martyrs is still the seed of

the church. The British missionary should read the stories of Columba of Iona, of Aidin of Lindisfarne, of Boniface of Exeter, and try to bear hardships like good soldiers and not to call for gunboats.

And when we plant the church in China, we must seek to plant it as a Chinese church, and not as a semi-Anglican one. Such a native church can only be solidly based on national self-respect, affected, it may be, by national weaknesses, and perhaps by national independent treatment of Christian truths. It will then last long after the gunboats of Great Britain have fallen into decay, and her commerce has shifted to younger nations. The governing classes reflect the general feelings of the people: the literati and gentry who are credited with all the opposition, are recruited from the ranks of the people, and fairly represent the clergy and landowners in Great Britain, who are as a rule extremely conservative. The objection of the Chinese to Fung-chui is real and not fictitious, and as regards lands and houses these sentiments, however ridiculous they may seem, indicate the actual feelings of the people, and no doubt of the native Christians also. Missionaries must deal gently with the prejudices which they encounter. To occupy a sacred site and build upon it a missionary residence or school under any view of the case, is an act of extreme indiscretion, to which no lapse of years can give a sanction. To convert a pagoda into a Christian place of worship is one of those acts which may be resented for centuries. We have instances of the evil consequences of such a policy written in blood in every country. If Mahometan or Brahmoist or Buddhist missionaries were to appear in London, and erect a place of worship under the shadow of the Abbey, or appropriate a proprietary chapel of any denomination to their purposes, would a London mob tolerate it, however much religious tolerance be the law of the land?

The conclusion to be arrived at seems to me this: that a missionary should try to win his way to the hearts of the people, and should under no circumstances invoke the arm of the flesh for the protection of property, or accept compensation for property lost. He will find it more profitable in the long run to exhibit the patience and charity and unselfishness which will disarm his antagonists. If his life be endangered, he must save it by timely flight; if imprisoned, there can be no doubt that collective intercession will be made for him in such a manner as to secure his liberation; if he fall, he falls a blessed martyr, he does no more than numerous examples have gloriously sanctioned, than the Gospel predicts, and than hundreds of his countrymen have been willing to do in every part of the world, even when the prize to be gained

was but an earthly one. Persecutions were not unknown in the early days of Christianity, and yet it triumphed in the end. It is idle to expect the crown without the cross. There are many sufferings still unsuffered, many crosses not yet taken up, many crowns still to be won.

I have twice visited the Empire of Turkey with the view of contrasting their system of governing conquered provinces with the British system in India. I was sitting in the divan with the Pasha of Damascus, when a European consul was introduced, who hectorred and bullied the Pasha while actually on the seat of judgment. I had myself governed large Asiatic districts, and recognized the salient features of the complaint as of not uncommon character. The Turk smoked and bore the abuse stolidly, at least to outer appearance. I felt for him, and felt also that if any representative of any Power in the world had behaved in such a manner in my office, I should have had him turned out forthwith, and, if he repeated such conduct, should have fined him for contempt of court, and looked to my own Government to support me. The British magistrate and consul know that the best missionaries give them the least trouble, if indeed they give any at all. The argument that the consuls of other nations have succeeded in compelling an unwilling Government to make concessions is an unworthy one and not always true. In a discussion in a British committee room about troubles in China, the Secretary to an American board of missions was asked, how it happened that their missionaries were always backed by their consul. The reply was an expression of surprise on the part of the American Secretary, and the dry remark that his missionaries complained that the British missionaries were always backed by the British consul, while the American consul refused to interfere.

I have no love for the irrepressible Turk, and I have traversed great parts of Turkey and studied its system, which is bad, thoroughly bad; yet I cannot excuse missionaries of gross violation of the first principles of duty of an alien permitted to reside in a foreign country. Neither Russia, Austria, nor France would have tolerated such conduct for an instant. It is an understood principle of international law, asserted and practised by every Continental Power, that they have a right to eject any foreigner from their country for reasons best known to themselves. Turkey has the same *de jure*, and some day will be irritated to the necessity of using it.

I visited a celebrated city in Turkey and found that the medical missionary was in great distress, because the Governor had stopped the erection of his new hospital. I visited it: it was on a lofty hill commanding the town, and had the

appearance and reality of a fort, with walls pierced for musketry and embrasures for guns. Any hospital built on such a site and in such a style in British India, at Benares or Amritsar, would have been dismantled at once. In the case of trouble it would have been at once occupied by rebels, and nothing but a siege would take it. And yet the doctor abused the Turk!

Clearly a Sovereign State has the control of its own educational department. Austria, Russia, France, Germany, and Italy claim for the State the monopoly of public instruction. If missionaries act with conciliation to the local authorities, they can keep open their schools, but it is of no use blustering, and claiming under a treaty a right to open schools avowedly to convert the Mahometans. I am not quite sure that even in free England large Mahometan schools would survive the popular indignation.

Then again as regards the criminal law and the police: the missionaries are not the judges, whether the local Governor is just or unjust, and it is a monstrous abuse of the hospitality of a friendly State for a resident alien to give shelter to a man for whose arrest a warrant had been issued, to conceal him in the mission premises, and smuggle him out of the jurisdiction. Yet such a case is reported with complacency by a missionary who thinks that he has done a praiseworthy act. In British India, any missionary who acted thus would have found himself next day in prison without benefit of clergy.

My opinion is that the missionary should mind his own business, and following the example of St. Paul, keep on good terms with the powers that rule whether in India, China, Japan, or Turkey: he should abstain from writing complaints home, but get access to the local authorities, and get them over to his side by the pleasantness of his bearing and conversation. Missionaries very rarely quarrel with the authorities in British India, as they are highly valued, and as a rule are reasonable men. The oldest missionaries never think of complaining: they put up with little inconveniences, and get their way in the long run when their wishes are reasonable. The difference is well known between the real Gospel-preacher, the simple-hearted missionary, and the grievance-monger, the spy who introduces himself into the military cantonments to watch the proceedings of the brave but thoughtless British soldier, the frothy declaimer against the liquor shop, and the man who is always at war with the education department. The former are loved, honoured, and always welcome. My first idea of a missionary was in 1844, when I met at Ludiána on the Satlaj good John Newton of the American Presbyterian Board. I have had my eye on John Newton for forty-five

years, and he is at his work still, as I heard from him last month. For twenty years I was as an official in relation with him, and never heard a complaint from his lips ; but I marked well his consistent Christian walk. There are others of his stamp, and I wish that all were like them ; but a great deal depends upon the character of the missionary, the local authority, and the general population. There must be light and shade in the life of missions as in the life of man, and a spirit of conciliation, a practical illustration of the principles that are preached, a determination not to depart from the law of love and discipline of patience except under extreme necessity, will work its way at last. If it does not, let us remember that in all cases it will be better to abandon the mission at least for a time, rather than to alienate the hearts of the non-Christians and make Christianity odious in their eyes.

ROBERT CUST.

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### ART. III—SOME AGRARIAN QUESTIONS IN THE PUNJAB.

THOSE difficulties which in the Bombay Presidency resulted in the passing of the Deccan Ryots Act of 1879, have cropped up at different times in the Punjab also. In 1887 a series of official papers on the subject was published as selection No. LXV from the records of the office of the Financial Commissioner (New series No. 11.) This dealt with agricultural indebtedness and mortgage sales; and the net result is summed up in a minute by Colonel Wace (Financial Commissioner) which should have brought the situation home to those acquainted with the Province.

Meantime there had appeared in 1886, from the pen of an officer serving, under the Punjab Government, a brochure with the somewhat alliterative title of "Musulmans and Money-lenders in the Punjab." The author, Mr. S. S. Thorburn, has spent some twenty years in various capacities, chiefly in the Indus tracts; and, as settlement officer of the Bannu District, had been keenly interested in various questions treated in his book, which touches a good deal more than its name alone might indicate.

The main position which forms the *raison d'être* of this work may be summed up as follows:—

I. The actual land-holders, including those that till the soil by their direct exertions,—and these in the Punjab form the bulk of the land-holding class,—are to a great and increasing degree falling into a state of hopeless indebtedness.

II. There is thus a risk, involving grave political and social dangers, that a once independent, often proud, and largely warlike body may be turned into the embittered serfs of a knot of selfish usurers, formerly despised and mastered by that body itself, and of no intrinsic weight in the defence or government of the country.

III. This state of things has in part arisen from the policy of the Administration, and must be remedied by a reversal of that policy in certain respects, and important modifications of its course in others.

Mr. Thorburn dwells, in passages of his book, on what he evidently ranks among the principal causes of the condition stated. It is not altogether easy to separate his definite views

from the running commentary of argument and illustration, not to say declamatory matter, with which they are involved ; but the chief mistakes which his treatment of the subject suggests in the policy of the past are fairly ascertainable.

He blames that policy, uncompromisingly, for three things which, he says, its exponents have done, and for two things which they have omitted to do, respectively.

The three things that have been done may be roughly stated thus :—

(1). The creation of private and transferable property in the land ;—

(2). The introduction of fixed assessments, payable in money, on the land ;—

(3). The building up of an elaborate Statute-book and Procedure Codes, to the exclusion of what the writer mentions as the rules of “ justice, equity, and good conscience ” : while the two things that have been left undone are these :—

(4). The restriction of free trade in landed property ; and

(5). The provision of an insolvency law, wide and easy enough to admit the agricultural debtor.

These five points by no means pretend to exhaust the author's quiver : the pamphlet is replete with shafts, aimed at the men of the past and the measures of the present, but the graver omissions and commissions alleged range themselves under one or others of the heads just given.

The matters agitated, and the remedies propounded, had been in great part discussed before, notably in those proceedings of which the despatch of the Secretary of State to the Government of Bombay of the 26th December 1878, may be looked on as the pivot. What Mr. Thorburn has done is to transfer to the Western Punjab, the lines of the former controversy ; believing that similar evils to those which disturbed the Deccan in 1875, affect the tracts with which he is familiar, and may any day result in a more mischievous explosion. His general thesis is thus enunciated by himself :—“ The Punjab is an agricultural province, a land of peasant proprietors, a large and annually increasing portion of whom are sinking into the position of serfs to the money-lenders.” It is possible, no doubt, to find unpleasant confirmation of this strongly worded view in the statistics of the Agricultural Department. It may be doubted, however, whether pending improvement of the subordinate machinery, these records can be accepted as sufficient proof either one way or the other.

More palpable evidence is afforded by the Settlement and Assessment Reports of the past decade. An example may first be taken from the original sphere of Mr. Thorburn's strictures in the Western Districts.



Mr. Tucker, settlement officer, writing of the Derah Ismail Khan district in 1879, gave a minute account of mortgages, from which these significant passages are taken :—

"793. In the Dehra Ismail Khan Tehsil the proportion of land "mortgages is heaviest to the north in the Paharpur, Panniala and "Khasar Circles. In the Daman the proportion is generally "small."

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"The bulk of the mortgages in the Kalachi Tehsil are for the "Gundapur Circle. The Gundapur mortgages have been already "discussed in my account of that tribe. (See paras. 282 and 283.)

"There is also a good deal of mortgage among the Babars and "Ushtaranahs. Leaving out the Gundapur circle, the proportion "borne by mortgages to the assessment is much the same as in "the other Tehsils. Three-fourths of the mortgages of this "Tehsi' are to Mohammadans."

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"In the Dera, Bhakkar and Leiah Tehsils, the bulk of the "mortgages are held by Hindus. As a rule the greatest amount "of mortgage is to be found in well-tracts.

"Proprietary rights in wells were clearly recognised under Native "Governments, and a large proportion of these well-mortgages "date back to pre annexation days. The cultivators of Sailaba "and Daman lands originally held the position rather of tenants "than of proprietors, their rights being acknowledged only so "long as they cultivated their lands efficiently. Such lands there- "fore were only mortgaged in the more settled tracts. To the "present day there is but little mortgage in the river villages, "where lands are liable to be washed away, and do not therefore "afford sufficient security to the money-lender. In parts of the "Bhakkar and Leiah Kachi, the population is very indebted, and "there is no doubt that many of these small Mohammadan pro- "prietors must eventually be sold up. As Mr. Lyall writes, 'all "we can do is to amend anything in our revenue system which "tends to hurry on the process. Only a minority of these men "have proved fit for the improved status which we gave them ; "the majority will descend in time into the position which suits "them, of mere tillers of the soil, with enough to live upon, but "no credit to pledge and no property to lose. Their original posi- "tion under native Governments was little better than this. It is "of course the too frequent elevation of the despised Kair or "Hindu money-lender over the heads of a naturally dominant "Mohammadan population which is the worst part of the "change.'

At page 87 of "Musulmans and Money-lenders" the Settle- ment Commissioner's remark quoted by Mr. Tucker is made to apply to the whole Mohammadan land-holding community of the Western Punjab.

It was plainly, from the context, written of a limited class, holding by a limited and special tenure in a particular strip of the Derah Ismail Khan district. It by no means follows, therefore, that the most competent revenue experts of the time considered other measures than the tempering of the revenue demand impracticable.

Again ; the continued indebtedness of the Gundapur Pathans, which the extract discloses, should be read with Mr. Thorburn's eulogy on the departed glories of the Sikh Administration, at pages 43 to 45 of his book. The passage is too long for quotation, as also that in which he sketches the Arcadian state of the Gundapur and Ushtaranah circles under a system of revenue collection from the actual threshing floor, such as has continued, with other plausible devices in the East from time immemorial. He admits, it is true, that any general revival of the crop appraisements and State landlordism which he describes is out of the question ; but the prologue is calculated to leave, with many of his readers, a prejudiced impression.

In a minute written some years ago on certain propositions by the late Lord Hobart, Sir Louis Mallet warned his colleagues that speculation on the first principles of Indian revenue would not long be kept within academic limits ; and now the Government is being assailed with a cry for collection of the land revenue in kind *and a permanent assessment*. It is all the more incumbent therefore on those who raise the ghosts of buried controversies to state the whole of the surrounding circumstances. The value of agitations which profess to court the daylight of economic science, can be readily gauged by expressing the current watch-words of the parties engaged, in terms of the commodities that are at stake in the actual market.

In Scotland the law of "hypothec" was doomed so soon as it was clearly understood that the landlord's claim involved a lien on the farmer's oats and beans, to the exclusion of the farmer himself in a bad season. In Ireland we are convinced at last that the native theory of "rint" amounts to a qualified willingness to make over an inconvenient pig, or a bushel of damaged potatoes. To put the Bengal difficulty in a concrete shape, the Collector will doubtless be invited, if he wants to recover his rice allotment from the Jheels, to come and take it.

That clamour should be raised in interested quarters against progressive settlements of the State demand is not surprising. It is none the less disappointing that skilled witnesses should ignore the deliberate judgment recorded, after trial, against the indigenous system by a practical statesman like the late Sir Salar Jang \*

Before leaving the Western Punjab it should be noted that the race and religious animosity on which Mr. Thorburn lays

\* Famine Commission Report, Appendix II, Selected Evidence, page 79.

so much stress is a local, though undoubtedly a potent factor. In the Eastern portions, where this aggravated symptom plays a subordinate part, the prospect is, nevertheless, by no means reassuring. The officer (Mr. Douie) who has lately revised the settlement of the Jagadhri Tehsil in the Umballa district,—a mainly Hindu tract,—after giving a statement of the percentage of revenue-paying land that has passed since 1856 from the hands of its former holders, says,—

“Between Rajputs, Gujars and Jâts there is little to choose as regards the fatal facility with which they get rid of their land, and these three tribes at last settlement owned nearly two thirds of the whole Tehsil, and still own above half of it. The Jagadhri Jât is a very different man from the sturdy Jat of the Punjab. He works harder, as a rule, than his Rajput neighbour, but if he has the misfortune to live near a small town, he gets into debt nearly as easily. The state of some of the Jat estates near Jagadhri is deplorable. Even the thrifty Kamboh has not held his own. Raiens and Malis have stood their ground, but their stake in the Tehsil is a small one.

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“Once the Zamindar is deep in the bunniah’s books there is no escape for him, and our judicial system undoubtedly helps him to his ruin. It may be said that it is a good thing that such weaklings should go to the wall. But the bunniahs, who are taking their place, are greedy and unimproving landlords; and the future of the Tehsil seems to me a dark one, unless some radical measures, such as have been adopted in another part of India, are taken to arrest the progress of decay.”

From the figures of the table which precedes these observations, it appears that in less than a generation the Rajputs of the Jagadhri country have been dispossessed of nearly a third of their rights in the soil, of which tradition, undisputed by their neighbours, depicts them as the paramount rulers at a period by no means distant in the dreamy view of oriental memory. The peasant confesses that he has speculated with the talent he received in the grant of a full proprietary title. He is none the better reconciled to his fate for being told that we reprobate the sharper who has won, at least as much as the yokel he has fleeced, with the help, in the end, of the public tribunals.

The land in India may not be more encumbered than in some European states, or even in America. But the feelings and position of the losers in those countries are not quite the same; and the political features are as far apart as the respective latitudes. The English are not in India to colonize, but to rule; and the class that loses under their rule will assuredly inquire to whom the advantage goes, and why a weak minority is enabled to absorb the fruits which Government will neither take to itself nor leave to those that have laboured to produce them.

Mr. Kensington describes, in his Assessment Report for the

Kharar Tehsil of the Umballa district (1888), the stamp of the new landlords :—

"The villagers have perhaps held their own rather better than was hoped, but large areas have been bought up by the strangest assortment of speculators.

"Bunniahs and Kalals of Umballa city, bunniahs from Tehsil Naraingarh, Khatries of Manimajra, a dâk contractor, a meat contractor of Kasuli, members of the ruling families of the Nahan and Kuthar States, and the Deputy-Commissioner's revenue accountant have been among the largest purchasers."

It is added that this galaxy consists almost entirely of absentees. Among these the retired accountant may be safely reckoned. Landlords of this sort are not tempted, as a rule, to live surrounded by their tenants. In the Jagadhri Tehsil already mentioned, a great proportion of the area transferred has been engrossed by a single money-lender, who is, or was, the Government treasurer of an adjoining district.

These extracts have been chosen so as to illustrate the East as well as the Western districts of the province, but parallel results are unpleasantly conspicuous in other settlement records. For details relating to the Central and Southern tracts, Mr. Steedman's Report on the settlement of Jhang may be consulted, which includes a graphic study of agricultural helplessness, or reference may be made to Mr. Purser's analysis of agrarian debt in the fertile district of Jullunder.

Few now-a-days are likely to maintain that—"There is nothing alarming in the extent to which land is being transferred; but that, on the contrary, a natural and healthy process is going on, which should on no account be interfered with."

Mr. Clarke, Deputy Commissioner of Delhi, has pithily remarked :

"If a debtor on being sold up could come upon the rates as in England, the law would never have been so severe."

If the usurer, instead of having his debtors billeted, as custom still provides, on the slender means of their neighbours in distress, were taxed for the support of the district poor, the "healthy process" of land-hunting would receive a natural and speedy check.

The income-tax was to provide a kind of imperial work-house in the name of famine relief. Is it therefore that the self-elected representatives of "the people" demand its restriction now, and will presently, as likely as not, demand its repeal altogether? The "people" represented at Allahabad in December 1888, were the Bunnias, the Khatries, the Kalals, and their motley train of scriveners and attornies.

So much for the disease. The remedies proposed will very much depend on the view taken of its origin. Mr. Thorburn

as has been said, appears to lay a great deal at the door of the Revenue system. It is hardly a complete answer to such criticism to say that under any system the cultivator would have plunged into debt with equal recklessness, the fatal gift of the fee-simple in his holding once beyond recall. This is open to the obvious retort that the genius of the husbandman is beside the mark, if it can be shewn that he is forced in fact to borrow on the security of the crop, to pay in advance his Revenue instalment. If the State demand be regarded as a tax, the policy of such a scheme would scarcely stand examination. If on the other hand we adhere to the doctrine of State ownership, then surely a prudent landlord would not drive his tenants half-yearly to the bank to take up money for the settlement of his rent at an exorbitant rate of compound interest.

No choice was possible in the earlier days of British administration in the Punjab. The transition from an absolute hypothecation of field produce to the State was necessarily gradual. There are now, however, many circles, possibly even complete districts, in which the revenue might safely be collected in a lump sum after the proprietors have received their rents, and the tenantry have realized on the revenue-paying crop at each harvest.

A little patient enquiry in this direction would probably be worth a dozen essays on the economic opinions of the Sikhs, or the "good old rule, the simple plan" of the Mahrattas. It is surely illogical to attack the imposition of cash assessments, and the recognition of private rights in land, as if they could be separately reformed. Bad or good, these principles must plainly stand or fall together:—moreover, they apply not to the Punjab only, but to the whole of Western and Northern India as well.

Yet this is precisely what the school, of which Mr. Thorburn is a fervid apostle, habitually preach. It is urged, even while admitting that it is impossible to recede, that the land should not be saddled with a money assessment to begin with, and then the right of property, which the very basis of such assessments postulates, is impeached as if it were an independent and remediable evil.

We have sinned, it is said, in making the *ascriptus glebæ* of the Punjab the proprietor of the clods with which he carries on a life long struggle; granted,—though the premise leaves room for plenty of debate—*Et Après?*

"I would make it illegal for any person deriving profits from a shop or from money-lending, to acquire any interest in arable or pasture land other than land in the immediate vicinity of a town or large village, or manured and irrigated land anywhere, or irrigated alone, if from a well."

But would not the result of any proceedings of the kind be merely to throw the borrower into the grip of a class who would abuse the power of capital in proportion to the increasing weight of their position? Is there any proof that middlemen, who are not shopkeepers or hereditary money-lenders, would be less odious to the cultivator than the unspeakable Karar? As a matter of fact the recent history of Oudh and of the Eastern Punjab shews, that the proceedings of the great domain-holders are a source of keen and constant irritation to the actual tillers of the soil.

If the peasant cannot bind himself to the Mahajan, he will sell his birthright to the Jagadar, and the horror of interest, which is alleged to haunt the gentry of the Western border, is by no means shared by their co-religionists in more advanced societies.

There is no law sharp enough to hinder usury, though the prohibition may be fenced with the strongest religious sanction. If the Muslim stickles at the accursed thing, his conscience is promptly salved with the name of 'increase' (mūnafa). It follows that those who differ from the author of the suggestion just considered as to the causes of existing evils, will not agree to the remedies which he proposes.

There is, however, a less drastic change which is advocated in the same pages that demands a word, though here, also, it seems impossible to fix the limits of the proposed improvement. It is argued that the system known as that of fluctuating assessment should be widely extended, and applied to different tracts in which the incidence of a fixed land revenue is said to aggravate the burdens of the agricultural community. The essence of a fluctuating assessment is, that the State demand from the husbandman should be regulated from harvest to harvest in proportion to the actual yield of his actual cultivation.

There are various devices for attaining the result aimed at and these are discussed in some detail by Mr Thorburn. The most feasible, as far as experiment has shown, is the establishment of a fixed crop rate or rates applied, while the crops are on the ground, by measurement of the area under crop, allowance being made for inferior quality by deductions, expressed in terms of the area sown, on an estimate of average yield, worked under local rules which depend on local conditions. In theory something of the kind would be, perhaps, the beau idéal of land revenue work in Upper India. In practice two serious obstacles are met, which have not, however, prevented a trial being given to the plan in certain tracts where its introduction seemed especially advisable. It is palpable that any such arrangement sets a premium on laziness among a population given to waiting on Providence

and a patriarchal Government; the second difficulty is even greater, for it lies in the persistent, and almost universal opposition of the cultivators themselves to any system which places so much at the discretion of the subordinate official staff, and most of all that precious relic in conservative eyes of indigenous statecraft, the village accountant or Patwari.

There remains for consideration the third main count of Mr. Thorburn's indictment. He abandons, himself, any hope of return to a golden age of agricultural tithes for the support of modern State establishments, and his other schemes for revenue reform appear to have but a secondary connexion with his general aims, and to admit, if at all, of very gradual application. In his desire to improve the working of the judicial machinery where the agriculturist is in danger of being drawn in and crushed by its wheels, he is likely to meet with more general agreement.

The cultivator, in the Courts as they stand, is pitted against the money-lender at such a disadvantage, that the scales of justice may be fairly said to deflect from the balance of equity. The learned Judges of the Chief Court have reiterated warnings to the subordinate judiciary to listen patiently to the peasant's tale of wrong, and not too readily to believe the glib account and smug retort of the practised usurer, armed with a counterful of well concocted ledgers. The fact remains that the debtor goes to the wall, because the subordinate Courts go on mechanically applying the letter of a law which is foreign to the instincts alike of the parties and the Judge, while it affords a perfect magazine of stuff for the exercise of the pettifogger's calling.

This obstacle impairs such suggestions as the first which Mr. Thorburn offers, for judicial improvement, namely, that the law should compel the Court to examine plaintiffs before summoning defendants, and further, should confront the parties so as to elicit the ultimate truth. Have the advocates of such a panacea considered the practical effect of the precisely similar safeguard which the criminal law has carefully provided? A Magistrate must, by law, conscientiously and intelligently examine the complainant before he issues process for the appearance of the accused. How many Indian-born Magistrates comply with this provision? How many annual reports does the Recording Angel witness which embody the despairing hope of those set over them that they do comply with it?

Again, there is a proposal that in executing decrees the Court should, in certain cases, make the attached property over to the judgment creditor at a valuation to be fixed by the presiding officer. With the present staff of Munsiffs in the Punjab, this would hardly tend to make things better; for the valuation

would devolve on any shoulders rather than those of the Munsiff himself. What chance of observance is there for elaborate precautions of this kind, when the primary requirement that there should be a note of the essential course of proceedings in execution of decree under the hand of the Judge, is triumphantly ignored by almost every Munsiff in the province? The truth should be faced that all such well-meant attempts, at tinkering the lower grades of the judiciary are built on sand. The pay and status of the Munsiffs must be raised, and inducements held out to secure a sufficient leaven from the bar before any material advance in their working can be looked for. For such reforms money is, of course, required; but if the agrarian danger is to be really met, financial reforms cannot be shirked in any case. How to effect these is a question in itself, but this much it is relevant to say, that rather than public justice should be stinted, the money spent out of the local rates on the schooling of the non-agricultural class, might well be turned to more fair and useful purposes.

Is it right or wise to take a sum from the cultivator's store for the public purse, to divide this into two heaps, and then to say—

‘The bigger heap I take away for purposes which you do not altogether comprehend, and the lesser heap I again divide in lesser shares, the biggest of which I will spend in teaching the son of the trader, who is exempt from this particular demand, to write the bonds which you will not be able to read, to read the laws which you cannot understand, or to rise, some day, with luck, to be a judge and divider over you and your children.’

The literate wail is the result of our so-called education, and the mischief worked by the inferior class of pleaders, and the army of touts and petition-writers in many districts is unmistakable.

It is very doubtful, however, if the proposed exclusion of pleaders from Tehsil and Munsiff's Courts, which Mr. Thorburn demands, would be either politic or practicable, yet something in the way of control over the rabble of minor practitioners is sorely wanted. It is publicly asserted that the bench, in many instances, is dominated by the bar.

There are numerous proposals made in “Musulmans and Money-lenders” for improving the law itself; some of these are of a very sweeping character; others have formed the subject of official inquiry. The views stated involve certain statutory changes, one of which, relating to imprisonment for debt, has been substantially, at least, meantime effected: among the other recommendations are these—

I. That cultivators should not be summoned by the Courts at the harvest season;



II. That the Courts should be empowered to fix instalments in the course of executing a decree ;

III. That the power of modifying the award of arbitrators should be restored to all the Courts ;

IV That an estimated subsistence allowance should be fixed for the judgment debtor on attachment of his property, and exempted from attachment or other interference by the holders of decrees against him ;

V. That the period of limitation for certain forms of action should be extended ;

VI. That the Courts should be empowered to go behind the terms of a written contract on which an agriculturist is being sued, to take the whole account from the beginning itself, and give its judgment on the transactions disclosed as if no deed had ever been proved or admitted.

The first and second of these proposals are not likely perhaps to meet with any vigorous opposition. It may be doubted, however, if in actual working, they would result in any extensive benefit to the class which they are intended to protect ; it is little use, for example, fixing instalments for a debtor who persistently fails to understand, that if he wants the Court to help him he must pay his instalment into the hands of the clerk, or move to have adjustment out of Court formally certified.

The third suggestion is a kind of half-way house to a wider scheme of arbitration which will be presently discussed.

The fourth has the recorded support of many revenue officers of weight, and it will only be added here, that the principle, right or wrong, is even now not unfrequently applied by the Subordinate Courts in practice.

An important question is raised by the fifth proposal. As to this, Mr. Thomson's arguments at page 1005 of the " Selected Records" require attention. It is impossible to deny the force of these. He says—

" as to extension of limitation, I agree with the opinion stated by Messrs. Anderson and Grant and hinted by several other officers, that such an extension might benefit the thrifty, but would only render the entanglement of others more hopeless than ever. I do not wonder that the proposed change is strongly supported by native opinion. The opinions obtained are mostly those of debtors or of men who are in sympathy with debtors. All debtors who find difficulty in paying, welcome any change that will or may postpone the date of payment. But whether such a change is to their ultimate advantage, is a very difficult question. In the present case I think not."

On the other hand the evidence of Mr. Joshi, a legal practitioner and Secretary to the Arbitration Court at Poona, before

the Famine Commission.\* gives a common-sense argument on the other side, which daily experience in the Courts tends to confirm. It stands to reason, as the witness is reported to have urged, that if the money-lender has to renew his bond every three years (and this in business is the fruit of the existing law) he will add the interest accrued to the original advance, and charge compound interest on the fresh sum for the fresh period. Thus in twelve years an advance of five Rupees might saddle the ignorant borrower with a debt of sixteen times the original obligation. This result is the more resented by the peasantry where Hindu traditions forcibly survive, because the maxim of the Hindu elders limited the village banker in a simpler and fairly effective way, by closing the account when the interest added up became equal to the principal. The ancient custom is still pleaded at times by some old-fashioned Jat in the British Courts; and it is small wonder if the experiences which undeceive him place the justice of his rulers in an unfavourable light. It is not only in England that "the wisdom of our ancestors" is "a cherished superstition."

The suggestion that the Courts should "go behind the bond," strikes at the root of the whole difficulty.

The highest judicial authority in several provinces,—including the Punjab—has impressed on the Subordinate Courts from time to time, the duty of inquiring strictly and minutely into the circumstances under which acknowledgements may have been obtained from ignorant and helpless debtors; and in successive judgments having the force of law, it has been held that where such a transaction appears to have been coloured with substantial fraud, or tainted by undue influence,—in other words where extortionate or unconscionable conduct by the lender has been proved,—the whole of the dealings should be opened up and an equitable decree entered.

These excellent principles unfortunately remain, so far as the bulk of the Courts of first instance are concerned, a dead letter. It is not within the scope of this article to inquire into the causes of this failure, complex in themselves and involving wide and difficult considerations.

As regards the present remedy there can hardly be a doubt. Nothing will effect the end aimed at within a calculable time, short of the constitution of a special scheme of relief on lines analogous to those already adopted in the case of the Deccan ryots. There are questions of detail with regard to the organization required, which call in themselves for the most careful working out by qualified experts. For instance; is a

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\* Appendix II, Selected Evidence, p. 81.

special commission necessary to deal with litigation of the kind, or can the working of the proposed measures be properly entrusted to the existing Courts? Again, should Munsiffs and Subordinate Judges continue to take up suits against agrarian debtors of all kinds, subject to appeal or revision by a special Judge? Should decrees against cultivators be made over for execution to the revenue staff? or should this only be done where land is sought to be attached? Do the provisions of the existing Procedure Code vest sufficient powers in the Collector for dealing with such cases? Should Benches be provided for particular areas, either for original disposals, or for appellate work, and the supervision, at first hand, of the subordinate agency?

Perhaps the agency of special commissioners, deputed in the first instance for selected areas, is the most practical course; and their experience might pave the way for the mature consideration of certain of the specific recommendations made from time to time for amending the law governing the execution of decrees and procedure generally. The immediate necessity is to provide relief from the unequal operation of the present laws, where an imprudent borrower has to meet an astute and grasping lender; and this necessity is one that must be met,—justice apart,—on imperative grounds of manifest expediency.

Connected with the establishment of special tribunals is the question of Rural Courts of Village Munsiffs or Panchayats: and this again suggests the point mentioned in Mr. Thorburn's book of Village Registrars. It is necessary, in speaking of Panchayat Courts, to guard against the imputation of wishing to revive a "patriarchal institution" which was tried in the Punjab, and was pronounced to have signally failed, as stated in a minute by Dr. Thornton.\* Dr. Thornton, to copy an epigram of his own, was a lover of all mankind,—except those who ventured to doubt the cosmopolitan efficacy of English middle-class beliefs, and the feasibility of governing by the naked force of codes and circulars.

Without subscribing to his cheerful preference for official agency, even when its inferior quality is the subject of public complaint, it may be safely admitted that the revival of the institution which his minute condemned is unadvisable. The proposals which the advocates of unofficial Judges for petty rural suits are likely now-a-days to make, would give the arbitrating body a status opposed, in material points, to the hybrid Panchayats constituted by the Board of Administration in 1849. The essence of the abandoned scheme was, that the dispute must come in the initial stage before a

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\* Page 894 of the "Selected Records." (Agricultural Indebtedness.)

**Stipendiary Judge.** The Judge was then to say to the parties as it were, "nolumus episcopari;" he was enjoined to treat them to as much as human patience would endure of the law's delays,—and more. But suitors did not fail to see that by a sufficient exercise of that passive obstruction, in which the oriental is a past-master, they could force the hand of the officials, and secure their pound of flesh from the Court itself, bound as it was by hard and fast interpretations of a foreign law which even in its home had always borne so much in favour of the moneyed classes, that the fictions of equity were built up, by the gradual working of the public conscience, to redress it.

The village Munsiff, or the members of a Rural Bench, would start under altogether different auspices. "Conciliation" has failed, it is said, in France; it remains to be seen whether it will yet succeed in South-Western India. It has been justly said that a man does not go into Court to make peace with his opponent, but to get the better of him. It is perfectly consistent with this, that the parties should acquiesce in the decision of a volunteer tribunal if they are made distinctly to understand that their enigmes will not be given any other field for their development. It is demonstrable that the average results in petty Civil disputes, to say nothing of a certain class of Criminal cases, in which the time of highly paid officials and the conscience of the people are now being frittered away, would be quite as sound as those that are actually reaped in the annual sheaves of trumpety litigation with which the shelves of district record rooms are heaped to an "admired confusion."

It is easy to point the finger of scorn against the assumed venality or crassness of "the village Miños." But there are two features in the conditions under which a rural Bench would work which are commonly overlooked by such objectors. First, the village tribunal would be subject to an active public opinion at its very elbow, in a way which, in the case of the lower grades of the paid judiciary, is non-existent, or only exists in an unhealthy form. The fiercest light that beats on the proceedings of a remotely situated Munsiff is that supplied to the columns of some obscure or notorious print by a wrathful attorney, whom nobody perhaps would believe even in his truthful intervals. The village patriarch that should give a verdict on the spot against the facts would have an uncomfortable time from the friends at least of the injured party. It may be urged that this involves a certain element of weakness, and that, like other arbitrators, the Rural Courts would be apt to take refuge in the virtual compromise which advocates abhor as piously as nature has been said to abhor a vacuum. It is also true that an infusion of compromise in the upshot of petty litigation is precisely what is called for by the

exigencies of the case ; at least, if this is disproved, there is an end of the trouble. If Shylock is always to win, then let us go on, in the name of weariness, as we are going now, and leave, the ultimate arbitrament between those that pray their rulers to "look behind the bond," and, those that stand upon the letter of the law,—to the constable's staff, or, if the baton fails, the "ultima ratio regum" from the next cantonment.

The second restraint on the corruption of village Courts lies in the inveterate tendency of the loser to complain, and the wholesome dread of such complaints which regulates the rustic mind, when they are likely to be preferred by a neighbour.

In Mr. Beighton's recent article \* on judicial matters in Bengal, he complains of the reluctance of Subordinate Magistrates to convict, in cases where resistance is alleged to process-servers. This may be a grievous error in Bengal:—the Punjab Magistracy, however, if similarly arraigned, would plead perhaps that the position of the humblest myrmidon of British justice is so strong, that the presumption against his having been obstructed at all is very weighty. It may not be right to compromise the judicial conscience in such cases by the infliction of a paltry fine, but the administrative lesson to be derived is obvious. The ryot of the Punjab, whatever may be the case with Bengali Zemindars, will seldom, if ever, bring a genuine complaint against the meanest licitor.

For him every thing that goes about with the imperial badge is part and parcel of the irresistible and unrelenting power of constituted authority.

It is, no doubt, possible, by injudicious handling, to turn a useful agency of the kind into a cheap and evil adjunct of the paid machinery of Government ; the most expensive instruments are liable, not equally, but in much greater degree, to be blunted or misapplied, unless properly directed, but it is to be presumed that, if Rural Courts are at any time introduced in the Punjab, the District officers will receive proper instructions and advice for the control of the new agency.

A practical step in this direction might be to ask from each district whether, in selected areas, rural notables or Government pensioners are available for investment with summary powers in certain simple Civil cases, up to say Rs. 50 nominal value. The matter of record should be left to the honorary Judge, *provided always that if he keeps a record at all, it must be with his own hand*, and that in no case is he to entertain a subordinate writer. Where a bench was constituted for a circle of villages, such for instance as a Zail, the record of

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\* *Calcutta Review*, No. CLXXV. for January 1889.

decrees, which must of course be brief and need not be artistic, might be entered in the diary of the village accountant of the circle in which the parties reside,—and in the case of residence in separate agricultural circles,—then in the diaries of both,—on the day of decision.

Appeal there should be none ; but Deputy Commissioners, (not District Judges at first), should be empowered to reverse or modify the order of a bench or Rural Mansiff, on cause shewn, upon petition stamped at a fixed fee. The relief to Munsiffs' Courts would be patent before long ; and if, where the local authorities were prepared to try it, the higher powers, after the experiment, believed it had not met with due success, retreat in time is always possible.

The mention of Patwaries leads to the registration question, and it is surely an obvious criticism on any scheme of compulsory notarial validation of rural indentures, that the natural agency,—the only agency that could in fact at present be worked to the end desired—is that of the village Registrar of land assurances. The present writer hopes to see the cumbrous and not always reputable "Sub-Registry" give place, in time, to the natural and convenient course of Revenue Record ; meanwhile he would not "encourage" the cultivator to admit in one place what he is afraid to deny, as it is, in another. It seems to have been forgotten that the usurer will only take his debtor before the notary when the debtor is duly worked up to the confessing point, and the Patwari would not be invoked until this point was arrived at.

In recording the proceedings of an independent body, his agency is safe enough. The situation is entirely changed when the Patwari himself is dressed in even the briefest robes of separate authority.

But, it may be said, when you have got your Rural Courts,—and all the rest of it, what have you gained ? You compel the usurer to sue for his fifty rupees,—before he can mature a heavier balance,—to the best of your power ; and what will happen ? Will he not quickly take his Bahi (debt ledger) and write rupees fifty-one as the first admitted balance ? In cases he will, but the cases, in which he will refrain, are worth providing for.

The argument, however, brings the ultimate difficulty once more to the front, and it is hard to see how the evil, if it be a real and pressing evil, can be fairly remedied without recourse to special legislation ; such legislation must provide a specially competent class of judges, and must be expressly directed to the due and equitable application of the rules of evidence and common sense to the special cases which arise, where agriculturists are concerned in contracts that tend to be

one-sided to a mischievous and oppressive degree. In order to apply the law in cases of the kind, the knowledge of agricultural facts and rural conditions, which a settlement officer for example ought to acquire, is probably essential. But a knowledge of law, and appreciation of its general principles by the revising authority at least, is equally demanded, if the special procedure is to command respect or work evenly. It may not be easy to find the material for the proposed improvements. But this, like other difficulties of the kind, can be overcome.

An *amende* is called for to the author of "Musulmans and Money-lenders" for the use made of his book. The best is to acknowledge that without its aid the discussion of the subject here would hardly have been possible. The writer bows to the superior authority of Mr. Thorburn on many matters of opinion and experience, and if, in the course of argument, differences have appeared, these should be attributed to an earnest desire to reach the ultimate object which the advocate of the Western Punjab has had so much at heart, by direct and practicable roads for the body of the cultivators in the Province.

There are several matters which he has dealt with that have not been here discussed for want of space. There are other matters, not mentioned in his work, and beyond the scope of the present treatment, that the same cause has excluded. It has been thought advisable to confine attention to those leading contributions to this vital problem which can be properly discussed,—namely, Mr. Thorburn's volume, and the latest official summary of the case that has been communicated to the public.

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#### ART. IV.—SOCIAL IMPROVEMENTS • • PAST AND FUTURE.

**D**URING the last fifteen or twenty years many noticeable changes have taken place in the social life of Englishmen in India. Some of these changes are decidedly for the better, and may be clearly traced to the march of intellect and civilization ; while a few—very regrettable ones—are undoubtedly due to the depreciation of that important factor in Indian life, the rupee, and the consequent changes in some of the salient features of station life. The fall in the price of silver has dealt a death-blow to the open-hearted hospitality of former years, and deprived Indian social life of one of its chief attractions. This would be more severely felt than it is, but for the greatly increased facility in travelling which renders it unnecessary for travellers to depend upon the chance hospitality of their countrymen. Thus, although railway extension, road-making, and the general opening out of the country has brought people much more together, it has also provided the means of greater independence. The Dāk Bungalows now provide accommodation for many who in by-gone days would have been obliged to ask shelter from strangers.

Increased facilities for coming to, and for escaping from India have brought a large number of Englishmen to the country, and, as a matter of course, a greater amount of refinement into every-day life, and the intellectual, or more properly speaking, the educational wave that has swept over Europe, although it has not actually reached us, has had its effect in softening and toning down many of the worse features of Anglo-Indian society. The educational question is one of vast importance, not only in Europe but in India. Every schoolboy or girl becomes either a creditable or discreditable member of society, and the presence of an increased number of members whose education is below par, will check any further improvement and lower the tone of general society.

It is possible that mere brain culture has been carried too far in Europe, and that physical fitness for the duties of life is being sacrificed to it. The cramming system is particularly unsuited to men who have to face the common everyday difficulties of Indian official life, and a Girton girl is not likely to make an efficient leader of society ; still, they have a better chance of succeeding in life than those who have received the best education obtainable in India. When the many disadvantages under which Indian schools are carried on are



considered, it will not be a matter of surprise that the results fall short of those obtained from schools which suffer from no such disadvantages. The scholars are drawn from a very mixed community, and as a rule receive little or no training before being sent to school. In England children are sent to preparatory schools and brought under control at an early age, but in India there are no facilities for removing them from the evil influences which surround them from their birth, and they are not sent to school until it becomes absolutely necessary. In large Presidency towns this difficulty is of course removed, but as the majority of scholars are boarders from other parts of the country, who have received no training except such as their parents gave them, the teachers must necessarily labour under great disadvantages. Besides this, the constitutions of the children are not equal to the strain necessary to attain a high state of proficiency, and their studies are frequently interrupted by petty ailments, and difficulties that do not arise in Europe, chiefly the result of climate, want of strength and energy, and bad tone acquired from association with native servants.

One great mistake is made in the education of girls both at Home and in India. While at school their time is fully occupied with the ordinary routine of school studies, which includes a very superficial knowledge of general literature. From the time they leave school, all their studies are discontinued and they at once enter society. No time is allowed for the cultivation of their minds, although there are many hours in the day which could be devoted to that purpose. In India there is very little to occupy their time. Household duties are left to the mother of the family, or disposed of in a very short time. A durzee does the sewing of the family; and the station library, if they live in a moderately large station, supplies them with the means of killing the hours until the evening amusements begin. To be old enough to leave school and to be old enough to be married are synonymous terms, and if a girl is taught to consider marriage as the aim and object of her life, she will live down to that aim, and not try to raise herself above it. The accomplishments that are supposed to be most attractive will be cultivated, music, painting and dancing will not be neglected until secured; but more solid attainments will never be to occupy her time, although by devoting a few otherwise to them, she could fit herself for the position she occupies effectually than by idling them away over

of the family are pretty and attractive in  
 sure to receive an amount of attention  
 its in believing them to be all they can

desire, and no further improvement is considered necessary. But a few years rubs the gilt off the gingerbread: the beauty fades, the attraction becomes less and less, and they have nothing to fall back upon. If they marry—as many do—when they are much too young to undertake the responsibilities of married life, they either break down under the weight of family cares and become prematurely old and careworn, absorbed in the daily worry of children and servants, unable to spare the time to make themselves or their homes attractive to their husbands; or they neglect those duties entirely, and lead frivolous and unprofitable lives, caring only for excitement and dress. In either case the gilt is soon rubbed off, the bloom is gone, and they settle down into the ordinary member of Anglo-Indian society, who sips her tea and talks scandal, or discourses volubly upon the subjects of babies and bazaaring, or the shortcomings of her servants and neighbours.

It is by no means an unusual sight to see the ladies of a station collected in one part of an amusement club, and the gentlemen in another. It speaks volumes for the entertaining powers of the ladies. They resent it and lay the blame on the unsociability or unappreciativeness of the other sex, but the fault really lies with themselves. The reason of this unsatisfactory state of affairs is obvious; men naturally seek some means of amusing themselves during the few hours they can spare from their work and it is no amusement to them to sit and listen to the fatally monotonous conversations that form the usual amusement in the ladies' room. Even the society of a pretty woman pall upon her admirers, if she has no intellectual storehouse to fall back upon (unless indeed the admirers are also void of understanding), when the small, alas, the very small talk of every day life is exhausted. Common objects of interest are rare between a well-educated man and the average woman of station society, and the percentage of well-educated men being greater than that of well-educated women, tends to encourage them in seeking their amusements amongst their fellow-men. A man may be very partial to ladies' society, but he will hardly care to sit and talk to them every day, while his companions are enjoying their billiards and whist, and thus they are again placed at a disadvantage. The average woman is not an entertaining companion if she has nothing to depend on but her conversational powers, as is generally the case, whereas the average man is very often a good whist player, or a worthy antagonist at billiards, and it matters very little whether his intellect is above or below that of his fellow-players during the short time they are together.

The obvious remedy for this unappreciativeness on the part of the men lies in the cultivation of subjects of mutual interest,

above all, in the cultivation of the intellectual powers of the rising generation of wives and mothers. The days are past when women were highly prized simply because they were scarce in the land; if they want to regain their supremacy, they must make a vigorous effort to meet the demand for higher education, and greater mental capacity; they must endeavour to take an intelligent interest in subjects of general discussion, and if possible, join in such recreations as are admissible. A fair knowledge of games of skill, such as whist, chess, and various others, is invaluable to a woman, and an intimate acquaintance with the current literature of the day an absolute necessity, if she wishes to become the friend and associate of men of intellect and culture. As long as a girl's education stops short at a fair knowledge of the school text-books and the usual accomplishments of a little music, a little singing, and a little drawing and painting, and does not include the higher branches of education and a course of good reading, so long will the ladies sit in rows or groups and grumble at the discourtesy of the gentlemen in leaving them to themselves. Mutual friends and acquaintances are connecting links between people who meet for the first time, and an acquaintance with the friends of our youth, even though those friends existed only in books, leads to many pleasant talks that are a refreshing change from the chit-chat of everyday life. A well-read woman who can converse easily on most of the topics of the day, and understand the allusions that are made to either real or fictitious characters, in the past, rarely has occasion to complain of the unappreciativeness of her friends and acquaintances.

Without some knowledge of English literature the many good articles that appear in the magazines are unintelligible, and even the daily papers teem with allusions that are lost upon the readers who are unacquainted with the standard works of their own country. Past characters, whether real or fictitious, are constantly mentioned in conversation, and to be ignorant of them, places those who wish to join in it at great disadvantage, and gives rise to some curious mistakes.

"Isn't Mary Lamb the actress they are making such a fuss about in England just now?" was asked by a young girl who heard the name mentioned, and who was supposed to be well educated and a "great reader," as her fond mother constantly remarked. No doubt she spoke the truth; her daughter, like many of her contemporaries, was a great reader. She read every novel she could find on the library shelves, or borrow from her friends, she devoured the serial tales in every periodical, and forgot what she had read as quickly as we forget the meals that satisfy our hungry craving for

food. Even as those meals, if unwholesome, leave their mark on our digestive organs, so this unwholesome style of reading leaves its mark on those who indulge in it.

It would be unreasonable to expect general conversation to be always intellectual, or bookish, but it is not unreasonable to expect everyone to bring a certain amount of intelligent interest into the ordinary topics of the day. The small talk of some people is charming, and the woman who possesses, even in a moderate degree, the art of conversation, and can talk comprehensively and well on the various questions of the moment, is a greater and more lasting success than the one who can look pretty, sing sweetly, or dance divinely—but whose “candle of understanding” has never been lit. There is no lack of opportunity for those who wish to cultivate their minds and keep themselves abreast of the times. The library shelves contain many standard works, many biographies and travels that are full of interest for anyone who has a soul above novels and the magazines and papers supply excellent articles on all manner of subjects—literature, science, astronomy, natural history—there is hardly any branch of knowledge that does not afford food for the best periodicals and papers of the present age. It is the energy to take advantage of the opportunities that is lacking. The “girls of the period,” and the women too, pass by the shelves where the “dry” books are, and eagerly scan those where the latest sensational novels are to be found. The daily papers are glanced through, and a few crumbs of information gathered. Domestic occurrences, trifling correspondence, appointments and promotions come first, then the murders and divorce cases—and they are thrown aside. The pages of the magazines are turned over until the serial tales are found, and the rest is pronounced to be too dry and uninteresting to read. The consequence of this mere skimming is that those who indulge in the habit never have anything to talk about, and when the conversation turns on any of the questions that are being discussed in the papers, they are unable to join in, or to understand it.

That “a little leaven leaveneth the whole lump” is true enough in some cases, but not where the leaven is a small number of men and women who desire to raise the standard of female education and make women what they ought to be—intelligent friends and companions to the more highly educated members of society, and the lump is a large and mixed community who believe themselves to be fully educated and have no comprehension of the need of the leavening process, either for themselves or their children. The enervating effects of the climate are in favour of the “whole lump,” and the

"little leaven" will always be in the minority, for the "lump" is rapidly increasing in size, owing to the difficulty now experienced in sending children to Europe for their education.

A steady reduction in income induces a corresponding reduction in expenditure, and every year the effect of this diminution becomes more apparent, and society suffers proportionately. The children of European parents used almost invariably to be sent to Europe for their education and training, and returned to India with minds and bodies braced and strengthened—well fitted to fill the position occupied by their parents. Owing to the depreciation of the rupee and the increased expense of remitting money to Europe, many people are now reluctantly compelled to keep their children in India, and to trust to the Hills Schools for their education. Without wishing in any way to depreciate the efforts of those who are endeavouring to raise the standard of Indian schools, it is impossible to shut one's eyes to the fact that as yet boys educated in India cannot compete successfully with those who have been trained at first class European schools, and that the girls are not sufficiently highly educated and trained, to enable them to enter society on equal terms with those who return to India after many years of European training. It is not possible that youths and young girls brought up entirely in such a country as India, can possess the same amount of physical and moral backbone as those who have the advantages of a cold climate and a healthy moral atmosphere. Even if they are energetic enough, and are strong enough constitutionally to make the most of the education obtainable, they must fall short of the standard obtainable in Europe.

The effect of this rapid increase in the numbers of denationalized Europeans is already apparent in society, and before long will probably give rise to a more serious change. The various services that have hitherto been recruited largely from the families of Anglo-Indian officers, will have to be supplied with fresh recruits from England (to the exclusion of the sons of Anglo-Indians who remain in the country) or the Indian Government will have to be content with a lower class of officers. In the latter case the services will become less efficient, in the former the unemployed, denationalized Europeans, will increase and multiply, and become a thorn in the side of Government, even as the Eurasian question has been. The policy of reduction that has been steadily carried out of late years has pressed cruelly on the already over-burdened Anglo-Indian officers, and will bear bitter fruit in the future. Each succeeding generation will take a lower position than the former one, and a large class will gradually be formed who are unfitted by birth and association to live like

natives on low salaries, and unable to fill the position that would enable them to earn higher ones.

The idea of forming new schools of a higher class, where this rising generation can be as well trained as in England, is an attempt in the right direction, but can we hope it will succeed? Some parents try to ignore the difficulties in the way, and wilfully shut their eyes to the fact, that the result of past efforts has not been very successful. They try to persuade themselves that their sons and daughters are quite equal in all points to those who come out fresh from Europe; some may have good reason to think so, but the generality of European parents are painfully conscious of the difference that exists between the Home, and the Indian training, and the disadvantage men and women who have been brought up in India labour under, of being unable to enter into and comprehend the inner life of their own countrymen. What English man, or woman realizes what India is like until they have lived in the country? They may read numberless books about it, listen to personal experiences, descriptions and explanations, and yet retain the vaguest and most erroneous ideas about it. It is just the same with those who are brought up in India; they may listen to long accounts of the mother-country hear daily conversations, the burden of which is "Home, sweet Home," they may read a vast number of books of fiction, many of which contain true and life-like descriptions of English home, and society life, and in the end they know as little of England as the freshest Griff does of India. How then can they enter into the thoughts, ways and feelings of those who are still thoroughly English?—and how can their children prevent the boundary line that separates them from their purely European countrymen from becoming more clearly defined, and more difficult to cross than it is at present?

Besides this gradual change in its component parts, society is affected in another way by the present ruinous rate of exchange. The Europeans who still continue to send their families to Europe find it necessary to curtail their Indian expenditure, in order to meet the extra expense of remitting money to Europe, and are unable to entertain to the same extent as formerly. Many of the stations that used to be noted for their gaiety and hospitality, have lost that reputation entirely, and others have fallen off to a great extent, simply because the leading families find it impossible to expend a fair proportion of their income on entertaining their friends and neighbours, and making life pleasant and bright for all around them, when such an unfair proportion of their earnings is required for their home remittances. The subscriptions that used to be paid freely and willingly for races, balls, and

entertainments of various kinds, are now reluctantly reduced, or in many cases entirely withheld, not from free-will, but from necessity.

In other respects great improvements have taken place in Indian social life. Drinking and gambling have decreased in a marked degree, and rowdyism is rarely tolerated even amongst those who used formerly to consider no social gathering complete without its accompaniment of rough play and heavy drinking. The presence of a greater number of ladies has had a reforming influence on all grades of society, and brought a large amount of domestic comfort into the country. There are undoubtedly a great number of neutral-tinted members of society, who exercise no visible influence either for good or bad, but there are many others whose influence is very considerable, and if it is exerted in endeavouring to raise the tone of society, the retrograde movement that is inevitable—unless a determined effort is made to check the superficial and unsatisfactory system of training now prevailing in India—may be retarded. Intellectual progress is advancing steadily in all civilized countries, and if Englishmen—and especially Englishwomen in India, do not wish to see themselves and their children distanced in the race, they must march with the times.

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## ART. V.—THE APPORTIONMENT OF COMPENSATION IN LAND ACQUISITION PROCEEDINGS.

THE acquisition of land for public purposes is mainly dealt with in the Land Acquisition Act, X of 1870. The two objects are, to ascertain the value of the land acquired, and then to divide the compensation among the persons from whom the land is taken. With the former object, to which the law devotes ample consideration, this paper is not concerned except incidentally ; but the second object, which equally affects each person interested, has received but little notice. In administering the law the Courts have found it necessary to lay down principles of apportionment, and I propose now to examine them and consider what are the principles according to which the compensation should be apportioned. Apart from its legal aspect, this subject is one of some general interest where schemes of public improvement are advocated.

The principles laid down by the High Courts are clearly set out in Mr. Beverley's Treatise on the Land Acquisition Acts. I venture, however, to think (with all deference to the learned Judges who have enunciated them) that those principles fail to deal completely with the subject as a whole, and that, even so far as they go, they do not readily admit of reconciliation and application. Were the questions involved simply those of law, I should hesitate to offer criticism on principles expounded by the ablest Judges ; but in truth the questions are not questions of law, for the whole of the law on this subject is contained in two short sections which prescribe merely the procedure to be followed. The subject is really one for common sense to solve, aided by an acquaintance with the land system of the country. Such an acquaintance few would deny to be indispensable : it is scarcely possible to apportion compensation among the owners of land, unless one understands the tenure of the land.\* In

\* The expansion of tenant right effected by the Bengal Tenancy Act of 1885 has made the work of land acquisition officers more difficult and complicated. In many points they have neither statute-law nor case-law to guide them, and as the Reviewer points out, what case-law there is does not admit of reconciliation. Some revised rules under section 59 of the Act are now under the consideration of the Bengal Government. Even ryots holding under unexpired leases, and not having rights of occupancy, are "persons interested" in the land, and entitled to share in the compensation.—ED.



this essay I have attempted an exposition which has been arrived at after some experience at least both in the settlement and also in the acquisition of land.

The earlier cases decided by the Calcutta High Court involve disputes as to the apportionment between zamindars and patnidars, and their simplicity is no doubt due to the fact that, until recent years, the rights of but few tenure-holders were noticed by the law. Advancing prosperity in Bengal has, I believe, given a strong impetus to the practice of subinfeudation, and has greatly augmented the number and variety of the lower tenures. The task of apportioning compensation now-a-days is not a simple one, especially when land is acquired in thriving towns where it is much in demand. The later rulings recognise the complexity of the rights involved, but all the rulings together are but few.

In the earliest and one of the leading cases, \* the principle was thus expressed in 1860 :—"The zamindar and patnidar are entitled to compensation in proportion to the losses which they respectively sustain from the appropriation of their lands, and to the remission of the rents which they pay respectively to the Government or the zamindar . . . . With regard to compensation, the principle may most conveniently be stated as follows,—As the gross profits of the patni are to the profits of the patnidar, so will the gross compensation be to the portion of the compensation the patnidar is entitled to recover." Now I venture to submit that this formula, stated merely in this shape, would prove inequitable at the present time by reason of the method of ascertaining the compensation.

In one of the leading cases † regarding the *ascertainment* of the compensation, it was laid down in 1876 that to capitalize the present rental of the property at so many years' purchase was not always a fair way of arriving at the market value, but that the fairest and most favourable principle of compensation to the owners was to enquire, "what is the market value of the property, not according to its present disposition, but laid out in the most lucrative and advantageous way in which the owners could dispose of it" ‡ It seldom happens that property

\* *Sreenath Mookejee v. Maharaja Mahatap Chand Bahadoor* (S. D. A., 1860, 326)

† *Prem Chand Burrall v. Collector of Calcutta* (I. L. R., 2 Cal., 103.)

‡ This principle is sound, but it requires to be applied with great care and discernment, for, as Mr. Beverley very justly observes, "in calculating the value of the land as laid out to the best advantage, the cost of so laying it out would have to be taken into consideration on the other side." Customs, habits and prejudices would also require attention, for the most lucrative disposition might not commend itself to owners except at the trial in Court. Besides which, the law of supply and demand should not be disregarded, for the most lucrative disposition theoretically may not be actually realizable.

is so utilized as to bring in the utmost possible profit, for if it is in the occupation of raiyats, the raiyats may be paying light rents, or if it is otherwise used, all of it may not be utilized in the most lucrative way; hence the compensation estimated in this way will generally exceed the capitalized value of the actual profits. This excess may be designated "estimated excess value," and deserves more attention in the business of apportionment than it appears to have received.

Now according to the above formula of apportionment both the zamindar and the patnidar would share in this "estimated excess value." Thus, if *A*, a lakhiraj zamindar, has leased out an estate to a patnidar *B* at a rental of Rs. 200, and *B* receives an income of Rs. 600 from it, their profits are Rs. 200 and Rs. 400 respectively, and their shares of the total profit are one-third and two-thirds respectively. But suppose that the estate might be so used as to bring in an income of Rs. 800, then according to the above formula their portions would be one-third and two-thirds respectively of the *higher* compensation. But since a patni is a permanent tenure at a fixed rental, it is manifest that the zamindar never could get a larger profit than the Rs. 200; whereas the patnidar is really the person who can put the land to its utmost use, and could appropriate the whole excess income. The formula thus gives the zamindar a portion of the compensation that he is not entitled to, and deprives the patnidar of the same. It seems therefore faulty in the bare shape in which it is stated.

In another case \* it was held in 1863 that "the principle, upon which the amount of compensation is divisible amongst the zamindar and the holders of several subordinate tenures, is . . . . . to ascertain the value of the interest of each holder of a tenure, and to give him a sum equivalent to the purchase-money of such interest." This principle is somewhat different from that first mentioned and appears to be correct. It was re-nunciated in a case † in 1873. The compensation "ought to be apportioned between the parties according to the value of the interest which each of them parts with. The zamindar has a right to the fixed rent, and the loss he sustains is of so much of his rent. Any other possible injury, such as the chance of the patnidar throwing up the land, and its being diminished in value by what has been taken by Government, and still remaining, as it did, liable to pay the same revenue is, we think, not appreciable and cannot be taken into account."

But this decision was controverted in a later case ‡ in 1881,

\*Gordon, Stuart & Co. v. Maharaja Mohatab Chand Bahadoor (Marsh. 490.)

† Raye Kissory Dass v. Nilcant Day (20 W. R., 370)

‡ Godadhar Dass v. Dhunput Sing (I L.R., 7 Cal., 585).

when it was held—"As regards the zamindar, it is a mistake to suppose that his interest in the land is confined entirely to the rent which he receives from the patnidar . . . . . There is no doubt that in all cases the zamindar is entitled to some compensation (small though it be) for the loss of his rights. At any rate, he would generally be entitled to receive at least as much as the patnidar." Such a method of equal apportionment is no doubt simple, but it surely takes little account of the facts. Where this method was adopted in a subsequent case,\* the High Court in 1887 dissented from it and remarked—"It seems to us that no general principle can be laid down applicable to every case as between zamindar and patnidar. The apportionment between the zamindar and patnidar will depend partly on the sum paid as bonus for the patni, and the relation that it bore to the probable value of the property, and partly on the amount of rent payable to the zamindar, and also the actual proceeds from the cultivating tenants or under-tenants."

From this brief statement of the decisions arrived at by the High Court, it appears that the learned Judges have differed greatly, that no general principle has been established, and that the latest ruling leaves every case to be decided according to the facts, special regard being had to salami and rents. It seems to me, however, that such a conclusion must be defective, and that the whole matter cannot be involved in such chaos that no principle can be discovered. I now offer the conclusions to which I have been led after giving the subject careful consideration for some years past.

The question then, how should the compensation be apportioned, must obviously be answered thus: the apportionment must be proportionate to the several interests in the land; that is, since the interests are valued according to the profits to be obtained therefrom, the compensation must be divided among the claimants in sums proportionate to the profits that the several claimants derive (or, may derive) from the land.

But, stated merely in this shape, the principle resembles that laid down in the first case I have referred to, and is open to much the same objection. Besides which, it is not always capable of immediate application, for not every claimant's profit can be ascertained at once. Where the claimant is a middle-man, receiving a fixed rent and paying a fixed rent, his profit is of course the difference between the two rents. The necessary information regarding the rents (or the requisite data from which the information can be deduced, as where

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\* *Banwari Lall Chowdhry v. Burnomoyi Dassee* (1 L. R., 14 Cal., 749).

the area acquired is a portion only of a larger estate) can always be furnished without difficulty by claimants of that kind; and were the apportionment to be made among such claimants only, the process would be merely a rule-of-three sum. But, since the total compensation awarded rarely agrees with the gross rental paid by the lowest occupants, and generally exceeds it by what I have above designated the "estimated excess value," there is some uncertainty as to what profit the lowest claimant gets. The principle therefore needs further elucidation.

The value of land is determined by the profit it yields; and the price must be such that the profit derived from the land will constitute a fair interest upon the price. This is ordinarily expressed by saying, that the price of land is reckoned at so many years' capitalized rent, the number of years being approximately the number of times by which 'capital' is a multiple of its ordinary 'interest.' Thus, if the rate of interest is five per cent., the interest is one-twentieth of the capital, and the number of years for capitalizing rent would be twenty. Hence, if land yields a profit of Rs. 100 yearly, and the measure of capitalization is twenty years, its price would be Rs. 2,000. This computation holds good whether the land is bought with all its rights complete, or whether it is bought with only a portion of its rights; the value is in both cases regulated by the profit to be gained from the rights acquired.

The principle therefore may be re-stated thus:—each claimant is entitled to receive the capitalized value of the profit that he obtains (or may obtain) from the land. Where each gets the capitalized value of his profit, it is obvious that the apportionment is proportionate to the profits. But we have still to consider who is to get the "estimated excess value."

In apportioning the compensation on this principle, the profit to be considered is the *net* profit; thus, if a claimant receives Rs. 100 rent from his sub-tenant and pays Rs. 60 to his superior landlord, his profit is only Rs. 40, (omitting any deduction on account of expenses of collection). He is entitled to get the capitalized value of this Rs. 40 profit; for, if he sold his property in the open market, he could always get this price ordinarily, and to give him less would be to defraud him. Is he, however, entitled to anything more, (excluding, of course, the extra 15 per cent. that he must necessarily get under the law)? I have already explained that there is no uncertainty about the profit until we descend to the lowest grades of claimants; but at that stage there is generally the wide gap where the "estimated excess value" comes in. The question then arises, what should the lowest claimant get?

The profit of the superior claimants is fixed, for the rent they receive and the rent they pay are both fixed, and there

is no place for variation. But the lowest claimant has only one limit fixed, *vis.*, the rent that he has to pay; whereas what he receives (or rather, what he may receive if he chooses to exercise his full power over the land) is the utmost produce that the land is capable of yielding. Since this utmost produce is what determines the total compensation, and the superior claimants participate in merely what the lowest claimant pays, it is but just that the lowest claimant should get the whole sum *minus* the capitalized value of the rent he pays to his superior landlord, that is, the total compensation *minus* the compensation awarded to the other claimants. It follows, therefore, that the superior claimants have no right to any share in the "estimated excess value," and that they are not entitled to anything more than the capitalized value of their actual profits.

It thus appears that the principle is a fair and just one for all the claimants, and it may be finally stated thus: each claimant must get the capitalized value of his net profit, whether it be actual profit or the profit that he is legally entitled to according to his full rights; that is, of his net profit, actual or potential.

It may be convenient for the sake of clearness to sum up the grounds on which this principle rests. They are these:—

- (1.) The total compensation (however it may have been ascertained) almost always exceeds the capitalized value of the present gross profits from the land, and it may be treated as consisting of two portions, first the capitalized value of those gross profits, and secondly, the "estimated excess value." \*
- (2.) Each claimant is entitled to receive at least the capitalized value of his net profit.
- (3.) The "estimated excess value" must be divided among those persons in whose hands lies the power to exact the utmost yield from the land.
- (4.) Those persons whose profit consists in the receipt of a fixed and unenhanceable rent, subject to the payment of a similar rent, have no power to exact more, and cannot therefore claim a share in the "estimated excess value."

An illustration will make this principle clear. *A* is a zamindar who pays a Government revenue of Rs. 50, and

\* This is the result of the *Burrall* case of 1876 above cited (I. L. R., 2 Cal., 103.) The estimated excess value depends on the "discretion" of the Court and assessors, and is sometimes enormous.

who has sub-let his estate to a patnidar *B* at a rental of Rs. 340. *B* has again sub-let to two dar-patnidars *C* and *D* at rentals of Rs. 400 and Rs. 170 respectively. *C* and *D* collect rents of Rs. 600 and Rs. 240 respectively from raiyats, who (we will suppose) possess no rights entitling them to share in the compensation, but who do not pay rack-rents. Suppose the rack-rentals of *C* and *D*'s lands would be Rs. 700 and Rs. 300 respectively, and the compensation is awarded upon them at 20 years' value. *C*'s land then is worth Rs. 14,000 and *D*'s land Rs. 6,000 and the total compensation thus is Rs. 20,000. The actual profits that these various persons get are these (omitting the requisite deductions for collection expenses):—

Government *...	...	Rs. 50
Zamindar <i>A</i> ...	...	Rs. (340—50), <i>i. e.</i> Rs. 290
Patnidar <i>B</i> ...	...	Rs. (400+170—340), <i>i. e.</i> Rs. 230
Dar patnidar <i>C</i> ...	...	Rs. (600—400), <i>i. e.</i> Rs. 200
Do. <i>D</i> ...	...	Rs. (240—170), <i>i. e.</i> Rs. 70

Now the profit that the Government and *A* and *B* get are fixed unalterably, for the estate, the patni and the dar-patni are all held permanently at fixed and unenhanceable rentals. But *C* and *D*'s profits are not fixed, for, if they chose, they might rack-rent their lands and get the full profits of Rs. (700—400), *i. e.*, Rs. 300, and Rs. (300—170), *i. e.*, Rs. 130 respectively. At the same time they cannot be called upon to pay more than Rs. 400 and Rs. 170 respectively, and the total rent both pay, Rs. 570, is all that the Government, *A* and *B* can divide among themselves. Clearly, therefore, all the compensation that the Government, *A* and *B* can get is the capitalized value of Rs. 570, and all the balance of the compensation must go to *C* and *D*. Capitalizing all these profits, the apportionment would be made thus:—

Government, profit Rs.	50,	capitalized value Rs.	1,000
<i>A</i> ..	290	" ..	5,800
<i>B</i> ..	230	" ..	4,600
<i>C</i> ..	300	" ..	6,000
<i>D</i> ..	130	" ..	2,600

Total compensation Rs. 20,000

In practice, however, these figures would need to be corrected by deducting the collection expenses from the foregoing profits, if necessary.

The application of the principle is not, however, so simple and easy as the foregoing exposition would indicate, for, in so stating it, I have supposed all the claimants to possess

permanent rights in the land at fixed rentals. Superior claimants almost invariably possess such tenures, but the lowest grades of tenants do not always possess such rights or such rentals. In such cases there is a conflict between actual profits and potential profits, which needs careful discrimination.

Where a claimant's (say *Y's*) rights are not permanent (as when his tenure is for a term of years which has still some time to run), or his rental is liable to enhancement, his superior landlord (say *Z*), has a power of interference, and is able (theoretically at least) to demand a larger share of the profits than he gets at the existing rental. In such cases, therefore, the word 'profit' does not mean merely the existing profit, but must be taken to mean the profit that, on a consideration of the present and prospective conditions, the claimants might reasonably obtain. *Z* therefore would not be limited to the profit that he actually obtains at the present time, but would be entitled to claim in the apportionment some share of the profit that *Y* enjoys now; and *Y* would not be entitled to the capitalized value of all his present profit, but to something less.

How, then, is the apportionment to be determined between such claimants? These are the cases that will present the greatest difficulty. In answering this question, it will be convenient to deal separately with the two classes of variable rights above-mentioned; there may be others perhaps.

Let us first consider the case of those claimants who have a permanent right but not a fixed rental; such as the great body of occupancy raiyats whose rents are liable to enhancement, and who hold under an owner possessing a permanent right and paying a fixed rent. How is the compensation to be apportioned between him and them with regard to the right that he has of enhancing their rents? Clearly, it must be done with reference to the provisions of the Rent Law relating to the enhancement of rent.\* For (to continue the same designations) *Z's* claim to greater compensation is based on the fact that he can legally sue to enhance *Y's* rent, and the quantity of his extra compensation must obviously depend on the degree to which he can enhance. If it be objected that the Court must then practically decide a number of enhancement suits in the apportionment proceedings, the answer can only be—"True; that must be done if such questions are raised. How else can the disputes be decided? Now that the law has bestowed rights where none were formerly recognized, and jealously safeguards the rights of all, the apportionment of compensation brings into issue all the rights of every one,

and the proceedings are no longer as simple as they used to be."

Thus, suppose *Y*, an occupancy raiyat, pays a rental of Rs. 24 to *Z*, a patnidar, and that *Y*'s land is worth Rs. 720, equivalent (say) to the capitalized value of a yearly profit of Rs. 36. The dispute would relate to the apportionment of the compensation for the Rs. (36—24) rent, *i. e.*, Rs. 12. Suppose the Court considers that *Z* might fairly obtain an enhanced rent of Rs. 26, that is, an increase of Rs. 2. *Z* then might get the capitalized value of the Rs. 2, that is Rs. 40, and *Y* that of the remaining Rs. 10, that is Rs. 200. Or, considering that *Z* could not ordinarily get the enhanced rent except after considerable trouble, contest, and delay, the Court might equitably in its discretion award *Z* something less than Rs. 40; but considerations of this sort would depend on local circumstances, and no rule can be laid down beyond saying that, the more difficult it would be for *Z* to enhance his raiyats' rents, the less extra compensation should the Court give him.

In the other case, where the raiyat's (*Y*'s) rights are not permanent (as where his tenure is for a term of years, which has still some time to run), *Y*'s interest is virtually a terminable annuity of the value of his net profit, and his compensation must be fixed at the present purchase price of such an annuity for so many years as are still to run; and *Z* is entitled to get the rest of the amount in dispute between them. Such computations are dealt with in Treatises on Arithmetic. And it must be noted, in determining the value of *Y*'s profit, that, since in leases for terms of years the raiyat's rent is usually a fixed sum, no question of enhancement will ordinarily arise, and *Y* will be entitled to have his profit reckoned as if the utmost produce went to him alone for the term.

Thus, suppose *Y* holds land under *Z* at a rental of Rs. 30 for a term which has still seven years to run, and that the value of the land is Rs. 1,000, equivalent (say) to the capitalized value of a yearly profit of Rs. 50. The dispute will arise as to the apportionment of the compensation for the Rs. (50—30) rent, that is Rs. 20, and the apportionment will be thus:—*Y* will get the present purchase price of an annuity of Rs. 20 for seven years, and *Z* will get the rest of the Rs. 200.

It may be noted that this method also applies to temporary holders of all kinds, such as persons who take an *ijara* (or farm) of lands immediately under the zamindar or patnidar.

Such, it seems to me, are the principles according to which compensation must be awarded to occupancy raiyats and the tenants immediately above them. The High Court held in a case\* in 1881, that these two classes were the greatest



sufferers by the enforced acquisition of land, and that they were, generally speaking, entitled to the larger portion of the compensation. But the considerations that led to that conclusion were based on sentiment, which, though just, affords no standard by which the conclusion might be applied. From the foregoing discussion, however, it will be seen that it is just these two classes who will obtain the "estimated excess value," and thus enjoy a very substantial *satisfium*, which will be exactly proportioned to their previous profit, being the larger as their rents were the lighter.

In the case just cited the High Court considered that a landlord was entitled to some further share in the apportionment on the chance of the tenure falling in to him for want of heirs. Such a claim, where the circumstances made the falling in of the tenure probable, would deserve attention; but it may be doubted whether remote contingencies should be admitted at all. Where the number of possible heirs is large, and adoption is always available, the falling in of a *valuable* tenure is scarcely a probable contingency. Two other contingencies, sale and forfeiture, are referred to in the same case; but these are very different. If the zamindar bought in the tenure, he has of course acquired it at some expense: it may be at a substantial price, or it may be only in the shape of arrears of rent lost, and he is just a purchaser with a purchaser's rights; but this surely is scarcely a *contingent interest*. Forfeiture is no doubt such an interest; but no tenant would be likely to sit down tamely under such a deprivation, and the landlord would hesitate before exercising such an irritating right. The earlier ruling,\* therefore, disallowing these as inappreciable contingencies, appears to be the sounder view.

The custom of paying *salami* is supposed to complicate the rights to compensation but enquiry shows, I think, that that view is erroneous. *Salami*, or *nuzzerana*, is a bonus that a tenant pays his landlord when he receives a lease from the landlord, or when his landlord grants him some fresh right. The relevancy of this custom to the question of apportionment is insisted on in the latest case† in 1887. The Judges remark—"It may occasionally happen that the zamindar receives an extremely high bonus, and is content with charging the property with the receipt (payment?) of a very low rate of rent, or it may be that the bonus is almost nominal and the rent is excessively high, and the zamindar depends not on the bonus and the interest of the amount so paid and invested in some other way, but on the amount paid periodically

\* *Raye Kissory Dasseo v. Nilcant Day* (20 W. R., 370).

† *Banwari Lal Chowdhry v. Burnomoyi Dasseo* (I. L. R., 14 Cal., 749).

as rent; and consequently as between parties standing in these relations, it is necessary to consider all these matters before any conclusion can be arrived at as to their rights to any particular compensation." Let us test this conclusion by considering what the results of the custom are.

When a tenant takes a lease of land, the rent he has to pay depends on the capabilities of the land, and it may be fixed at a rack-rental or at anything below that. If the tenant is assessed at a rack-rental and his tenure is a temporary one, it is clear that he can pay no *salámi* or bonus, for the land will yield but a barely remunerative return, and any bonus he may pay the landlord would be simply money thrown away; he would give away so much capital, without getting in return for it anything from the land or any assured position on the land. It follows, therefore, that a tenant can pay *salámi* only when he receives some equivalent concession from his landlord; that is, the landlord, if he takes *salámi*, must assess the rent at somewhat favourable terms or must grant the tenant some valuable right or status. And it is obvious that the *salámi* must be commensurate with the benefit the tenant obtains, for each party's self-interest will guard against his being overreached. The giving and taking of *salámi* therefore indicate that the landlord has, in return for the *salámi*, foregone part of his rights in favour of the tenant, and that the tenant has become possessed of that much of his landlord's rights.

The matter may be looked at in another way. The characteristics of a lease are, that the tenant obtains the use of the land and pays a certain rent for its use. The characteristics of a sale of land are, that the purchaser pays a sum of money and obtains the land with all its rights. When a person takes a lease and at the same time pays down a sum of money, it is clear that the transaction is neither a lease pure and simple, nor a sale pure and simple, but something intermediate, which partakes of the nature of both; he is a lessee *quoad* the rent he pays, and he is a purchaser *quoad* the *salámi*.

It thus appears that *salámi* is nothing else but the price that the tenant pays to get a portion of his landlord's rights. It is strictly this, if the tenant acquires thereby fixed and permanent rights in the land; and, if the concession he gains is a reduction in the rent, the *salámi* is much the same, or (better perhaps) it is the capitalized value of the rent that the landlord foregoes. In the former case, the landlord has sold part of his rights to the tenant, and he can no longer claim compensation therefor. In the latter case he has already received the capitalized value of the portion of rent that he relinquishes to the tenant, and he is equally precluded from demanding compensation on that account. The payment of *salámi* therefore does not affect the apportionment of compensation, but each

claimant is still entitled to get the capitalized value of his actual or potential profit.

The gift of nuzzers and other presents and the payment of non-legal cesses do not, of course, affect the apportionment of compensation, for these are, theoretically at least, optional with the tenant, and as they are opposed to the law, the landlord who exacts them can base no claim on them.

There are some peculiar cases, however, in which the principle proposed for the apportionment would seem at first sight to fail, and these cases might be used to test the soundness of any principle. For instance, lands are sometimes leased out upon unremunerative terms, as where a person who himself pays rent sub-lets a piece of his land free of rent to some one who has a claim on him, or devotes a piece of it free of rent to some religious or educational institution. In such cases the rent-free grantee enjoys all the profits, while the grantor has still to pay his superior landlord's rent. Still the proposed principle indicates the method according to which the apportionment must be made in these cases.

Let us take a case : Suppose *B* holds some land at a rental of Rs. 20 under *A*, and sub-lets it free of rent to a temple *C*; whereas if let out in the ordinary way, it could fetch a rack-rental of Rs. 50, so that its value would be (say) Rs. 1,000. *A* gets as profit Rs. 20, and *C* Rs. 50, whereas *B* not only gets nothing, but has to pay the rent to *A* out of his own pocket, so that he loses Rs. 20. How then is the apportionment to be made? *B* obviously is entitled to get nothing. *C* cannot claim the whole sum, because *B* and he have derived their rights from *A*, and their rights are subordinate to *A*'s. No private arrangement between them can infringe *A*'s rights. *A* therefore must get the capitalized value of his profit Rs. 20, and *C* can only get the remainder. The apportionment therefore must be—

<i>A</i> profit Rs. 20	...	compensation, Rs.	400
<i>B</i> " " <i>nil</i>	...	"	<i>nil</i>
<i>C</i> " (part) Rs. 30	...	"	600
			<hr/>
Total Rs.			<u>1,000</u>

*C*, however, loses the capitalized value of the Rs. 20 extra profit that he had enjoyed, and as to this, his claim for indemnification must lie against *B*, for the arrangement is tantamount to this—*B* takes Rs. 20 rent from *C* in order to pay the rent to *A*, and at the same time makes a donation of Rs. 20 out of his own pocket to *C*. *B* cannot complain against this liability to *C*, for it leaves him exactly in the same position; before the land was taken he paid *A* Rs. 20 yearly

and after it is taken he must continue to pay Rs. 20 to *C* yearly, or pay off *C*'s claim once for all with the capitalized sum Rs. 400, which would thus give *C* his total Rs. 1,000. It cannot be maintained that in awarding compensation *A* is entitled to get the capitalized value of his profit, Rs. 20, and *C* that of his profit Rs. 50, so as to raise the total compensation to Rs. 1,400; for to maintain this is to assert that by crafty manipulation of mere rentals, the value of land can be raised to any sum; if *B*'s rent was Rs. 30, *A*'s and *C*'s profits together would be Rs. 80, and the compensation Rs. 1,600; or if *B*'s rent was Rs. 40, the combined profit would be Rs. 90, and the compensation Rs. 1,800; while all the time the utmost that can be got out of the land is Rs. 50 profit!

Similar to this is the following illustration: *Y* owns extensive premises and buildings, and leases out part of them rent-free to a company *Z* (in which *Y* is interested) to carry on its business. *Y* may claim the full value of all his property, and *Z* may claim separate compensation on the ground that, when it is removed elsewhere, it will have to pay rent for the new premises. It is clear that the whole value of the premises must be divided between *Y* and *Z*, and that *Y* cannot, by leasing out part of his property free of rent, enhance the value of the whole; otherwise the more companies he entertains free of rent, the greater the value of his property! And the companies themselves might in their turn also adopt so lucrative an arrangement!

It thus appears that the principle proposed does not fail even in these peculiar cases, but each claimant will get the capitalized value of his profit. For, in the first case, *B* by indemnifying *C* yearly in the sum of Rs. 20, or once for all by the capitalized donation of Rs. 400, gives *C* his full compensation, while he himself gets the strict value of his own profit, which is algebraically a *minus* quantity. In the second case, *Y* by making a present of the part-rent to *Z* divests himself of it and cannot claim compensation for it; *Z* instead must get that much.

It may be finally remarked that the question of abatement of rent is solved in this process, for each claimant in getting the capitalized value of his profit, *i. e.*, of his portion of the rent received, has his claim for that much rent satisfied; and as the rent paid by each tenant provides the combined profit enjoyed by all his superiors, the satisfaction of all the claims means the wiping out of all the rents due from the land acquired.

One question, however, has been raised in connexion with abatement of rent in two of the cases above-mentioned, *vis.*, if any claimant grants no abatement of rent to his sub-tenant is he entitled to any share in the compensation? It has been decided in those cases in contradictory ways. In the earlier

case in 1873 it was remarked—"If there is no abatement of the rent, and the patnidar continues liable to pay to the zamindar the same rent as he had to pay before, there would be nothing for which the zamindar ought to receive compensation." But in the later case in 1881, the High Court held that, though no abatement was made in the patnidar's rent, yet the zamindar was entitled to receive some portion of the compensation. There surely can be no hesitation in pronouncing the earlier view the correct one. The zamindar is entitled to nothing from the land but his rent; and, if he continues to get his rent as before, how is his position affected, and what is there that he ought to be compensated for? This arrangement of no-abatement only obtains in practice, where a small portion of a tenure is acquired, and where the remainder is ample security for the whole rent; while the contingent interest (which were pronounced to be of importance in the second case and which I have already commented on) really cannot claim consideration, for the greater part of the tenure still exists with whatever contingent interests may appertain to it. It is surely for the superior holder to decide whether he will have a part of the compensation and grant abatement of rent, or whether he will keep to his rent and relinquish his claim to compensation. He cannot refuse abatement, and in the same breath claim compensation. He must be left to decide which alternative he prefers. If he chooses to keep to the old rent, his share of compensation obviously must go to the inferior tenant who still pays him the unabated rent.

I submit these views for public consideration as the law enunciates no principles of apportionment and the case-law is uncertain; while the necessity for some correct and authoritative principles is not open to dispute. The general principle now proposed is simple; it is also, I think, of general application, for I have tested it in every way that has suggested itself from experience both in Calcutta and in the Mufassil. I have also stated the minor principles that qualify it in special circumstances. It remains for others, and especially for those well acquainted with the land system of the country, to decide whether these principles are correct, and whether they will rightly govern all cases. It is hoped that this discussion may clear the subject of some difficulties, and lead to the accomplishment of the object in view.\*

F. E. PARGITER.

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\* The Reviewer seems to have succeeded in showing that, in the apportionment of compensation in land acquisition proceedings, there is considerable uncertainty, and room for varying decisions. Case law can only step in when invoked *pro re nata*, and therefore it might be well for the Legislature to amplify the law, and lay down some broad principles for the guidance of Revenue Officers and the Civil Courts.—ED.]

## ART. VI.—TAXATION IN INDIA.\*

### *Part III.—The Stamp Revenue.*

CERTAIN duties levied in stamps under Act VII of 1870 and Act I of 1879 constitute what is called the Stamp Revenue. The stamps under Act VII of 1870 are called Court-fee stamps, and those under Act I of 1879 Deed stamps or General stamps. Prior to the Court-fees Act, 1870, there was no distinction between Court-fee stamps and Deed stamps. The same stamps were used for both purposes, and formed the subject of several General Stamp Acts from 1829 to 1869. The Court-fees Act, 1870, and the Indian Stamp Act, 1879, which are now in force, replaced Act XVII of 1879, which again had replaced the Stamp Fees Act, 1867. In the Objects and Reasons of the Act of 1867, it occurred to the Legislature to offer an explanation of the grounds for taxing civil suitors and other litigants. A heavy tax upon civil suitors had been in existence from 1829. The minds of the people had become familiar with it. The explanation offered in 1867 seems to have been somewhat tardy and unnecessary. It has furnished Sir Richard Garth with the theme of one of his "Few Plain Truths About India," and is given below *in extenso* :—

"It is not contended that the expenditure on the Courts of Justice should be met in full by a tax on such individuals of the community as alone resort to the Courts, because it is manifest that all classes have more or less a direct interest in the administration of justice, especially of justice in the Criminal Courts.

But it is only reasonable that those who resort to the Courts should contribute in a larger portion than the general public to the support of them as institutions by which they, more than others, are immediately benefited.

It has been found, too, that some tax upon litigants is absolutely necessary to restrain the special tendency of the public in India to resort either to the Civil or Criminal Courts on the occasion of every petty claim or dispute."

Referring to this explanation, Sir Richard Garth says :—

"It is clear, therefore, that the object of the Government in imposing this tax was not to make suitors pay the whole cost of

the Civil Courts, and certainly not to burden them with a large surplus in addition ; whereas the amount of the tax now raised in Bengal exceeds by at least one half the entire expense of the Civil Courts.

From the High Court Report, which was forwarded to the Government for the year 1882, it appears that the total estimated cost of the Civil Courts in Bengal was Rs. 3,396,066, whilst the total income to the Government from the stamp fees was Rs. 6,612,722.

This surplus had at the time been increasing for several years past, and I learn that it is now even larger than it was in the year 1882.

The result is that civil suitors in Bengal are not only made to pay the entire cost of the Civil Courts but of the Criminal Courts also, besides contributing a very large surplus for the benefit of the general public. All this I stated very plainly in a Minute which I addressed to the Government in 1883, and, as far as I am aware, my facts have never been questioned.

Now this is a manifest injustice, which falls with peculiar severity on the poorer class of litigants. To the rich the payment of so large a fee is often a serious matter ; but in the case of the poor, it absolutely bars the door of Justice. It often happens that suitors cannot possibly raise the necessary sum to enable them to enforce their rights ; and consequently suits in India, both by rich and poor, are frequently carried on, not by the claimants in whose names they are brought, but by suit-brokers and money-lenders, who undertake the case and pay the necessary expenses upon the terms of getting a share of the property if the suit should prove successful.

This mischievous system which is known in England by the name of Champerty and Maintenance, is here considered illegal, as being contrary to public policy and tending to encourage strife and litigation ; but it has been tolerated in India for no better reason, than because without it many unfortunate claimants would be without any means of redress. There is no doubt that both among Europeans and Natives, but especially the latter, a very strong feeling exists against the undue severity of this imposition.

There is not the same reason now as there was in former times for preventing unnecessary litigation by means of a tax. The Subordinate Courts are far stronger than they used to be, and fully able to deal summarily with unfounded claims ; and I should hope that the very questionable policy of denying justice to the poor, for the purpose of restraining generally a spirit of litigation, would not find much favor at the present day."

I am surprised no one has yet questioned Sir Richard Garth's facts and figures which seem to be incorrect and, in some respects, misleading, as may be easily shown by a reference to the Government accounts. The following tables, compiled from the Finance and Revenue Accounts of the years 1881-82 and 1886-87, show the principal items of the stamp revenue and of the expenditure under the head of Law and Justice in each Province for the years 1881-82 and 1886-87 :

*Account of Stamp Revenue in 1881-82.*

Name of Province	Sale of Court-fee stamps.	Sale of General stamps	Fines, penalties, and miscellaneous.	Total proceeds	Deduct collection charges and refunds.	Net Stamp Revenue.
	Rx.	Rx.	Rx.	Rx.	Rx.	Rx.
India, General ..	16,085	1,568	518	32,228	27,708	59,936
Central Provinces..	82,345	37,150	1,363	21,258	3,912	117,346
Burma ..	55,090	46,536	527	8,153	2,509	79,644
Assam ..	45,542	19,011	328	64,681	2,645	62,036
Bengal ..	670,171	325,874	6,357	1,202,392	46,912	1,155,480
North-Western Provinces and Oudh }	425,348	154,181	2,229	581,759	18,834	562,855
Punjab..	235,465	99,710	2,145	337,320	15,818	321,488
Madras ..	339,576	195,476	8,582	544,024	20,957	523,067
Bombay ..	231,749	146,271	36,531	415,551	24,155	390,996
Total ..	2,301,511	1,019,831	59,970	3,381,372	115,418	3,265,904

*Account of Expenditure under Law and Justice in 1881-82.*

Name of Province	The High Courts and Chief Courts including Law Officers	Subordinate Civil Courts and Courts of Small Causes	Criminal Courts including Presidency Magistrates	Jails	Miscellaneous.	Total Expenditure.
	Rx.	Rx.	Rx.	Rx.	Rx.	Rx.
India, General ..	107	4,128	4,578	145,079	4,8	159,350
				(inclusive of convict charges at Port Blair)		
Central Provinces..	6,513	6,601	54,831	55,043	2,021	125,029
Burma ..	7,918	10,852	65,600	62,973	8,782	154,135
Assam ..	...	12,388	31,435	9,590	1,959	56,372
Bengal..	135,053	371,703 (note)	206,124	159,832	28,412	901,184
North-Western Provinces and Oudh }	43,467	201,726	147,038	123,116	4,909	320,556
Punjab..	26,887	72,836	117,238	101,995	3,327	322,315
Madras ..	61,154	218,416	88,493	97,548	11,055	476,666
Bombay ...	90,507	213,012	122,985	81,161	7,245	513,910
Total	371,616	1,111,662	817,372	835,697	65,118	3,222,515

*Note*—Salaries of District Judges, Additional Judges, Judicial Commissioners, Subordinate Judges and Magistrates and Establishments, service of processes and sundries .. .. Rx. 344,335  
 Courts of Small Causes .. .. Rx. 27,366  
 Total .. Rx. 371,703



*Account of Stamp Revenue in 1886-87.*

Name of Province.	Sale of Court-fee stamps.	Sale of General stamps.	Fines, penalties, and miscellaneous.	Total proceeds.	Deduct collection charges and refunds.	Net Stamp Revenue.
	Rx	Rx.	" Rx.	Rx.	Rx.	Rx.
India, General	12,362	19,373	319	42,054	42,246	84,300
Central Provinces .	103,852	42,624	451	146,927	4,995	141,932
Burma ..	58,679	29,307	4,133	92,116	3,638	88,478
Assam ..	53,988	19,819	409	74,216	3,222	70,994
Bengal ..	999,217	334,279	12,822	1,346,318	61,127	1,285,191
North-Western Provinces and Oudh }	483,627	150,647	2,572	636,846	25,813	611,033
Punjab ..	235,452	113,167	2,811	351,440	19,028	332,412
Madras ..	362,986	212,171	6,911	581,068	23,742	557,326
Bombay ..	271,018	168,971	39,276	479,315	31,795	447,520
Total ..	2,591,241	1,090,338	69,711	3,751,282	131,114	3,620,168

*Account of Expenditure under Law and Justice in 1886-87.*

Name of Province	The High Courts and Chief Courts, including Law Officers	Subordinate Civil Courts and Courts of Small Causes	Criminal Courts, including Presidency Magistrates	Jails.	Miscellaneous.	Total Expenditure.
	Rx	Rx	Rx	Rx.	Rx	Rx.
India, General	588	9,034	13,318	132,011	675	155,626
Central Provinces	5,718	5,691	58,368	58,702	1,512	129,993
Burmah ..	19,836	8,232	85,435	73,190	45,633	232,326
Assam ..	333	13,316	37,117	100,008	833	161,637
Bengal ..	135,005	420,847 (n.c.)	212,878	166,572	26,573	961,875
North-Western Provinces and Oudh }	47,828	213,432	152,435	96,792	6,884	517,421
Punjab ..	29,630	122,907	118,966	78,494	3,814	353,811
Madras ..	56,315	233,410	97,131	83,305	5,950	486,111
Bombay ..	83,599	216,765	138,427	59,318	3,076	491,185
Total ..	378,852	1,243,636	914,075	763,392	94,980	3,394,985

\*Note—Salaries of District Judges, Additional Judges, Judicial Commissioners, Subordinate Judge, and Munsiffs and Establishments, service of processes and sundries .. Rx. 401,815  
 A Court of Small Causes .. .. .. .. Rx. 19,032

Total Rx 420,847

The above tables contain much more than is necessary to show the incorrectness of Sir Richard Garth's facts. They contain much correct information regarding the Stamp Revenue and Expenditure on the Courts of each Province, which seems to be both interesting and useful, and to which reference will be made more than once later on. Sir Richard Garth's facts and figures are easily disproved. They seem to be based upon an estimate made in 1882. Referring to the account of Stamp Revenue in 1881-82, it is apparent that the total proceeds of the sale of court-fee stamps in Bengal was Rx. 870,171, including the court-fees paid in Criminal and Revenue Courts. In these Courts the stamp duty is light, but a large amount of court-fee stamps is used for granting copies of proceedings, accounts, statements, and the like; see article 9, Schedule I of the Court-fees Act, 1870. Assuming the court-fees in the Criminal and Revenue Courts to be about 25 per cent. of the whole, we may estimate the court-fees paid in the Civil Courts in Bengal at what Sir Richard Garth has estimated it, *viz.*, Rs. 6,612,933 or Rx. 661,293. A deduction should, however, be made from this estimate on account of the succession duty paid in court-fee stamps on the grant of probate, letters of administration, and certificates under Act XL of 1858 or Act XXVII of 1860. The nature of this tax has been fully explained in Part II. It is a new tax introduced in 1870, and cannot be said to be covered by the Objects and Reasons of the Stamp Fees Act, 1867. It is not properly a tax upon suitors, but simply a Succession tax upon which the Civil Courts could have no special claims, unless it be upon the ground that everything was grist that came to the mill. The amount of this tax was estimated in Part II at Rx. 500,000 or 20 per cent. of the total court-fees revenue. According to this estimate the Succession tax in Bengal would be for the year 1881-82, 20 per cent of Rx. 870,171 = Rx. 174,034. Deducting this sum from Sir Richard Garth's estimate, the net court-fees paid in the Civil Courts in 1881-82 (exclusive of the Succession duty) would be Rx. 487,259. He says: "From the High Court Report for the year 1882, it appears the total estimated cost of the Civil Courts in Bengal was Rs. 3,396,066" = Rx. 339,606. Referring to the account of expenditure in courts in 1881-82, it is clear that this estimate did not include the cost of the High Court or Courts of Small Causes, but only the cost of the Subordinate Civil Courts. The total cost of the Civil Courts in Bengal in 1881-82 was Rx. 506,756 as follows:—

Cost of the High Court	...	Rx. 135,053
Do. of Subordinate Civil Courts	..	Rx. 334,335
Courts of Small Causes	..	Rx. 27,368
		<u>Rx. 506,756</u>

Sir Richard Garth has evidently been misled into thinking that Rx. 339, 606, which was the estimated cost of the Subordinate Civil Courts, was the total estimated cost of all the Civil Courts in Bengal. Being misled himself, he has been unintentionally misleading the public. As a matter of fact, the total court-fees paid in the Civil Courts of Bengal, exclusive of the Succession duty, do not yet cover the total cost of the Civil Courts in that Province. In 1886-87,

the total court fees paid in the Civil Courts of Bengal exclusive of the Succession duty (worked out as for the preceding period) was ... Rx. 549,570  
and

the total cost of the Civil Courts of Bengal, including the High Court and the Courts of Small Causes was Rx. 555,852.

Sir Richard Garth appears to have been quite wrong in stating that "civil suitors in Bengal are not only made to pay the entire cost of the Civil Courts, but of the Criminal Courts also, besides contributing a very large surplus for the benefit of the general public." This has not yet occurred, nor is likely to occur within the near future. What is likely to occur is, that in the prosperous province of Bengal, the total court-fees paid in all the Courts and offices Civil, Criminal and Revenue, exclusive of the Succession duty, may in a few years reach the total expenditure of the Civil and Criminal Courts, including Jails. But it will be a long time before this result is attained for the whole of India.

In 1886-87 the total Court fees sold in Bengal (exclusive of the Succession duty) was ... Rx 799,344  
the total expenditure of all the Courts, Civil and Criminal, in Bengal including Jails, ... Rx. 961,875  
the total court-fees sold in India, exclusive of the Succession duty ... Rx. 2,072,993  
and the total expenditure of all the Courts, Civil and Criminal in India including Jails ... Rx. 3,394,985

Being obliged, in the interests of truth to demolish Sir Richard Garth's so-called facts,\* I wish I could support his impeachment of the court-fee stamp duty upon other grounds. The

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\* [Yes, Sir Richard Garth's "Plain Truths" are indeed stranger than fiction, and the title of his booklet is an unfortunate misnomer, unless, indeed, it was selected on the *lucus a non lucendo* principle. The scale of fees fixed by Act XXVI of 1887 was high : but Act VII of 1870 was a "relieving" measure, and reduced taxation on litigation by  $2\frac{1}{2}$  per cent. Mr. Cockerell remarked in debate : "They had also to consider the fact that a tax not substantially different in amount from that prescribed by this Bill, had been in operation for upwards of half a century." As to the alleged profit from the administration of Civil Justice, there is no reason why the cost of all Courts, including criminal and revenue, should not be taken into consideration together. Then, there is the expenditure on buildings for Courts of Justice, and the pensions of Judicial Officers. If these be taken into consideration, the so-called surplus is more than swallowed up. As to taxation of litigation, Sir Charles Hobhouse remarked, when moving for leave to

initial stamp duty in Civil suits is, no doubt, somewhat heavy. But it exercises a wholesome deterrent influence upon litigation, and prevents people from too readily rushing into Court. Without it, what a fine time it would be for litigious men and mofussil practioners ! These practioners would have the suitors' available means all to themselves without having the Government to go shares with them. It would be like the system of open stills for distilling and vending liquor. People fond of litigation would wallow in it in the Mofussil Courts, as people fond of drink may wallow in liquor at the outstills. This may be a highly coloured picture. But the stamp duty has existed from a long time. It is easily collected. There is no reason now why it should be repealed or even reduced. It is much better that it should remain as it is than that either the income-tax or the salt-tax should be raised to recoup the revenue.

Sir Richard Garth says : "To the rich the payment of so large a fee is a serious matter ; but in the case of the poor, it absolutely bars the door of justice." He seems to forget that the Code of Civil Procedure has made ample provision for poor men's suits. A poor man can, on establishing his poverty, sue *in forma pauperis* without any stamp duty.\* But there is a Court well known to Sir Richard Garth, in which little or no stamp duty is paid, but of which the door is absolutely barred against poor men. I mean the Original Side of the High Court. Herein practise skilful attornies and learned barristers. They conduct their clients' cases with scientific skill and charge heavy fees accordingly. It has practically become the rich man's court in which poor men, unable to meet its heavy charges, have no *locus standi*. To men of moderate means of property it is a veritable snare, and has brought many of them to grief and absolute

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introduce the Bill, which afterwards became Act XXVI of 1867 : "He was aware that there was an opinion among certain writers in England that justice should not be taxed, but, as far as he knew, that theory did not meet with entire approbation in England ; for he found that, according to the returns of the year 1862-63, in the County Courts, the amount of fees averaged something like 15 or 16 per cent. of the value of the property litigated. He feared, therefore, that the theory could hardly answer even at home. But he was sure that it could not be applied to this country. *The community of this country was so particularly litigious that litigation was, with the great majority of the people, something like what an engrossing pastime, such as the ring was to some persons at home, and they would pay whatever amount was demanded rather than not litigate.* On looking into the history of the levy of duties on the institution of suits, he found that they had always been levied with the object of repressing the amount of petty and vexatious litigation with which the Courts would otherwise have been flooded." We would not say that these remarks are not slightly exaggerated ; but we have the stubborn fact that the *ad-valorem* fee in Mofussil Courts in India is 7½ per cent., while it is 15 or 16 per cent. in County Courts in England. Even if process and other fees were added in Bengal, the percentage would not exceed 12 or 14 per cent.—ED.

\* Chap. XXVI of Act XIV of 1852.

ruin. There is no initial stamp duty of any amount to make them pause. There is no means of making any estimate of the total cost as in the Mofussil Courts, where the suitor pays a lump sum for the case to his vakils, and is not charged daily fees by two distinct classes of lawyers, as in the Original High Court. The door of the court and the arms of the attorney stand invitingly open. A small initial outlay enables a man of moderate means to get in. Once in, he is a secure fish in the net. It frequently happens that he soon repents and wishes to get out. But he is encouraged to fight on to the end and employ eminent counsel at ruinous fees to fight for him. If successful in the end, he is half ruined. If unsuccessful, he is totally ruined. But then he has this satisfaction, which few mofussil suitors have, that his attorney has conducted his case with scientific skill, and eminent counsel have done their best to ruin him. I think, after all, poor men have no real grievance in being excluded from this Court. They are much better out of it.

Sir Richard Garth is amazed that the stamp duty should be so high as 5 per cent. of the value of the suit. But if a statement be prepared of the taxed costs on both sides in contested cases in the Original High Court, it will be found that the aggregate cost in a contested suit of average value, is about two hundred per cent. of the value of the property in dispute! It is high time that this huge costly humbug were knocked on the head. It was formerly the Court of the Anglo-Indians, who had little faith in the law or justice of the Mofussil Courts. But the Anglo-Indians have now spread over the country, have properties in every district in Bengal, and have become accustomed to the Mofussil Courts. To the natives of the country, the Calcutta Courts have always been a source of terror and oppression from the time of Sir Elijah Impey down to the present times. If the Court were to fall now, it would fall unregretted and unlamented by any section of the lay-public, Native or European,

“Unwept, unhonoured, and unsung.”

The only persons who would mourn its loss are the attorneys and junior barristers, whose occupations would be gone or greatly reduced. There are not a few natives in Calcutta who can testify to their families and fortunes having been well nigh ruined by some costly and protracted suit about house property, lingering on for years, and swallowing up far more than the value of the property in dispute.

It is clear that the justice administered by the Original High Court is not justice, considering the high price which suitors have to pay for it. It is unnecessary to consider whether that justice is intrinsically any better than the cheaper justice of the Mofussil Courts. It is the latter which ninety-nine per cent. of the

people of Bengal have and are content to have. Is it necessary, then, or expedient to have a different kind of justice for a hundredth part of the population? It seems to me there is not a single reason, political, economical or financial, for maintaining this costly institution. It should be replaced at once by a District Court. The financial advantage to the Government would be two-fold. There would be a large increase of the court-fees revenue by making the suitors in the Calcutta Court pay an *ad valorem* stamp duty as prescribed by the Act. There would be a large deduction in the expenditure of the High Court. This would go a long way to realise Sir Richard Garth's estimates of the court-fees revenue and expenditure on the Civil Courts in Bengal, though the occurrence of such a contingency (catastrophe he would call it) was never within his contemplation.

In connection with the court-fees, suitors in the Civil and Criminal Courts have a real grievance in the heavy stamp duty they are made to pay in those Courts for obtaining copies from the records of pending cases. Before 1870, plain or uncertified copies were made by the Amla (ministerial officers) in charge of the record or his friends, and given to suitors at a rupee for 1,600 English or 3,200 Bengali words. Out of this, the Mukhtear received from 10 to 20 per cent. as his commission. So that the net remuneration for copying was about a rupee for 2,000 English or 4,000 Bengali words. This seems to have been the rate of remuneration for copying on account of Government, but higher rates were charged to private individuals for furnishing them with certified copies.\* In 1870, the High Court directed by its Circular Order of the 23rd June, that the Judges of the Subordinate Courts should license copyists for the preparation of copies, and that copies should be paid at the rate of one anna for every hundred words in the vernacular and two annas for every hundred words in English. These rates were fixed at a time when copyists were few and costly. Now they can be had in any number and at small salaries. Any person who wishes to have copying work done in any large quantity, can get first-class copyists to do it carefully at the old Government rate of a rupee for 2,000 English or 4,000 vernacular words. So that if it were necessary to make any change in the rate of copying fees, it should have been considerably reduced and not raised, as it has been by a Circular Order of the High Court now in force, dated the 1st October 1880. This order contains the following rules in respect of copying fees :—

(a) In all Civil Courts, a uniform charge shall be made for

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\* Circular order of the Sudder Dewany Adalat, dated 13th May 1861.

the preparation of copies, whether authenticated or unauthenticated, at the rate of four annas per folio. This term, it is to be carefully explained to all subordinate officers, merely denominates a certain quantity of manuscript; the folio to consist of 150 words English, or 300 words vernacular, four figures counting as one word.

(c.) All copies, whether authenticated or unauthenticated, must in future, before issue, be examined by a salaried officer. The copies themselves will in all cases be made by section-writers, who will be remunerated at the rate of two annas per folio.

(d.) Half the charge of four annas per folio levied by means of the impressed stamp represents the payment to Government on account of the salary of examiners, cost of papers, &c.; the other half will represent the earnings of the section-writers, whose accounts will be made up monthly, and the amount due to each paid out of contingencies. These payments must be checked at the time with the upper part of each stamp, which, when the copy is ready, must be torn off each sheet, along the perforated line, and then endorsed with the copyist's name, and kept till the end of the month. Care must be taken to see that nothing in excess of half the amount realized in stamps is paid away."

By introducing the system of stamp paper in lieu of copying fees, the High Court has raised the charges for plain copies 33 per cent. Suitors cannot do without copies. They, unfortunate people, must have copies of all the important papers, *e. g.*, pleadings, documentary evidence, depositions, proceedings, and orders for making briefs for their lawyers. The cost to them under this head amounts to considerable sums, often exceeding the initial stamp duty in Civil suits. Four annas for every 150 English words is a monstrously high price for copies. In Calcutta you can print 50 copies for that price. It is unfortunate that Sir Richard Garth, the friend of suitors, should have been the Chief Justice of the High Court when the Circular Order which has imposed such a heavy additional burden upon them was issued. The High Court was probably not aware of the large quantity of copies which parties in Civil and Criminal cases had to take, and did not think that the rates fixed by their Circular would press hard upon them. Rules are like shoes. Their makers make them in the complaisant belief that they will fit the public very well. The public feel the pinch. But there is this difference, they can cast off pinching shoes, but cannot so easily get rid of a pinching rule of the High Court. It is quite clear that the rules of the Circular Order of 1880 require very considerable relaxation. The charges in registration offices for certified copies of deeds are at the rate of a rupee for copying and examining 800 English or 1,600 Bengali words. But the work of copying deeds or other papers for certified copies requires exceptional carefulness. Very few erasures or interlineations are allowed in such copies. Having regard to the market rate for copying, and to the fact that plain copies do not need the same amount of care as

certified copies, I would humbly suggest that, for plain copies, the rates should be as follows :

Two annas for copying 250 English or 500 vernacular words, and  
One anna for cost of paper and examining 250 English or 500 vernacular words, or

Total fees, three annas for 250 English or 500 vernacular words.\*

In order to introduce this alteration of rate, it would not be necessary to make any large changes. The stamp should be marked three annas instead of four annas, and the number of words per folio should be increased to 250 English or 500 vernacular. This would make the copies look like ordinary decent writing. They are written at present in a large school boy's hand like telegrams.\* For certified copies the present four annas stamps might be retained and the rate should be—

Two annas eight pies for copying 250 English or 500 vernacular words, and

One anna four pies for cost of paper and examining 250 English or 500 vernacular words, or

Total fees, four annas for 250 English or 500 vernacular words. †

In regard to the revenue from general stamps, I must repeat what I have shown in Part II, that about one-half of it is the duty upon the transfer of land. It is levied at the rate of one per cent. upon the capital value, and charged upon all transfers, whether by sale, gift, mortgage or lease. It is a great pity that no separate account is kept of this tax. It should be clearly placed before the Indian Government that it is a good thing to have valuable landed properties in the possession of its subjects; for such properties contribute in various ways to the exchequer. Take the Province of Bengal. Besides the land revenue of Rx. 3,887,486, the landed property in that Province yielded directly to the exchequer Rx. 752,919 in 1886-87 as follows :—

The Public Works cess, which is an income-tax upon the rents and profits of landed property in Bengal ...	Rx. 385,937
Stamp duty upon the transfer of land, estimated at one-half of the total proceeds of the sale of general stamps in Bengal ...	Rx. 167,139
Succession tax upon land paid in Court fee stamps estimated at 20 per cent. of the total proceeds of the sale of Court-fee stamps in Bengal ...	Rx 199,853
	<hr/> Rx. 752,919

\* [English copies have only five words in a line, and the writing is spread and scrawled out to cover the paper. A copy of a very long judgment may be an inch or even two inches in thickness! We can corroborate the Reviewer in saying that the present rate for English copies is excessive, and is felt to be so. But the High Court is not to blame. If we are not mistaken, the High Court in 1884 recommended a reduction of the rate of copying fees. It is for Government to act in the matter.—ED.]



There is not much complaint regarding the rates of stamp duty payable under the Stamp Act. But the provisions for impounding and levying penalties are a fruitful source of oppression and a subject of universal complaint and execration. Those provisions have, no doubt, been enacted *bond fide* for the protection of the stamp revenue and not for the wanton oppression of the people. But it is scarcely creditable to the Legislature that they could enact no better or simpler means of protecting the revenue.

All instruments relating to immovable property, and many of the more important instruments of the other class, come before registry officers for registration under the Indian Registration Act, 1877. Without registration, instruments of the former class are absolutely void and inoperative. Persons who, under the compulsion of law or voluntarily, bring instruments for registration (this they must do within four months of execution) cannot be said to harbour any design to defraud the stamp revenue. They know very well that it is one of the duties of the Sub-registrar to examine the stamp on the instrument, and that he will not register it if the stamp be insufficient. It is easy to conceive that the owner of the instrument (I use the phrase in the sense of the person in whose favor it is executed) and the Sub-registrar may differ in their reading of the clauses denoting the rate and amount of stamp duty. This is what frequently happens. But then, is it just to punish a man by impounding his instrument for not understanding a law (not always clear in itself) in the same way as the registry officers? Impounding the instrument always operates as a heavy punishment, although the Collector may ultimately decide, as he often does, that the owner of the instrument was right and the Sub-registrar wrong. Under Section 35 of the Stamp Act, the Sub-registrar sends the impounded instrument in original to the Collector who, on receiving the instrument, adopts the following procedure:—

“Section 37 (a).—If he is of opinion that such instrument is duly stamped or is not chargeable with duty, he shall certify by endorsement thereon that it is duly stamped or that it is not so chargeable, as the case may be, and shall, upon application made to him in this behalf, deliver such instrument to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct.”

“Section 37 (b).—If the Collector is of opinion that such instrument is chargeable with duty and is not stamped he shall require the payment of the proper duty, or the amount required to make up the same, together,

with a penalty of five rupees ; or if ten times the amount of the proper duty or of the deficient portion thereof exceeds five rupees, then such penalty, not less than five rupees and not more than ten times the amount of such duty or portion, as he thinks fit."

Let us take a case under Section 37, clause (a), where the owner is a man of average means, and is not at all in fault. What are the consequences to him of the impounding of his instrument ?

- I.—He has to come up to the Collector's Cutchery, generally at some distance from his home, and remain at the Sadder Station for several days. This costs him money, say five rupees, besides loss of time.
- II.—He has to engage a revenue agent or vakil to place his case before the Collector. This again costs money, say five rupees for fees, and eight annas court-fee for Mukhtarnamah.
- III.—It frequently happens that the Collector, who has multifarious duties to attend to, cannot find time to consider and decide the question of stamp duty. He puts off the case from time to time, and suffers the four months allowed for registration to elapse. Then the instrument becomes waste paper, and its owner is placed in a very embarrassing position and at the mercy of the executant.
- IV.—If the Collector decide in time that the instrument had been correctly stamped, the owner must again make application to him for the delivery of the instrument to the person who had presented it for registration, and bring him to the Collector to receive back the instrument. This again costs money, (say five rupees), for court-fee upon the petition, fees of the revenue agent, and expenses of himself and executant. If the executant had presented the instrument for registration and is not an honest man, he may purposely delay to receive it back from the Collector, and let the period allowed for registration expire.
- V.—If there is yet time for registration, the owner must again go to the office of the Sub-registrar to present the instrument for registration or cause the executant to do it. Sometimes the Registrar may extend the time for registration to eight months, under Section 24 of the Indian Registration Act, 1877, on payment of a fine equal to ten times the registration fee.

The consequences of the impounding of an instrument are, therefore, very serious, though the owner be not at all in fault. There is considerable expense, trouble, loss of time and, above all, risk of losing the instrument altogether; but the law is singularly one-sided and contains no provision for making any compensation.

If the Collector finds that the owner is in fault or that the instrument has not been correctly stamped, he has to undergo all the loss and tribulation mentioned above and to pay, besides, the deficient stamp and a penalty equal to ten times the amount of the deficiency. The fact of bringing an instrument (before it can be put to any use) to the registering officer, whose duty it is to examine and certify whether it has been correctly stamped, completely rebuts all suspicion of *mala fides*. Then why should a man in these circumstances be punished or put to any trouble? Why should not the Sub-registrar, whenever he thinks the stamp is insufficient, demand and receive at once the deficient stamp and register the instrument? Is not this a much simpler plan, and equally efficacious for the protection of the revenue?

There is, no doubt, a provision in Chapter III of the Act, that the Collector, on receiving a fee "not exceeding five rupees and not less than eight annas," may certify on an instrument brought to him for that purpose the proper stamp duty with which it is chargeable. Now, it is well known that the Collector is a hard-worked officer and burdened with numerous duties which leave him little spare time. But the Legislature will not understand this, and seems to think he has unlimited time on his hands. The fee is moderate enough. It is not the fee, but the trouble and expense of coming to the Collector and of dancing attendance upon him, and the long time he frequently takes to form his opinion and grant a certificate, which deter the public from resorting to him largely for certificates under this chapter. It is, probably, good for the administration of the country that so few instruments are brought to the Collector for certificate. If a large number were brought to him, he could not go through each instrument and determine the duty with which it is chargeable, without sacrificing or neglecting more important work.

Having explained my reasons at some length, I think I may now offer the following suggestions for the consideration of the Indian Government and the Indian public:—

- I.—Chapter IV of the Indian Stamp Act, 1879, should be extensively modified and recast. The power of impounding an insufficiently stamped instrument and admitting it in evidence on payment of a

penalty, should remain in the Civil Courts alone. Registering officers and all other public officers should be deprived of this large power for mischief. The case of presenting an instrument in the registry office for registration and that of using it as evidence in a Civil Court, are materially different. Besides, in the Civil Court there is little likelihood of an instrument being impounded except upon just and valid grounds.

- II.—There should be a provision that, on the presentation of an instrument for registration before a registry officer, he should examine and certify whether it was duly stamped. If he should find the stamp insufficient, he should endorse an order on the instrument to the following effect:—"The instrument not being duly stamped, I refuse to register it unless additional blank stamp of the value of— rupees is put in to make up the deficiency." On such additional blank stamp being put in, the registry officer should proceed to register the instrument as duly stamped and cause the blank stamp to be stitched or otherwise affixed to it.
- III.—There should be a further provision that it should be competent to the executant or owner of an instrument to apply to the Collector for the refund of the value of the additional stamp which he had put in under the order of the registry officer. If the Collector should find that the original stamp on the instrument was sufficient, he should make an order for the refund of the value of the additional stamp. Applications for refunds are not likely to be at all numerous. No one will consider it worth his while to incur trouble and expense for small refunds. The cases for large refunds will necessarily be few and these the Collector may decide at his leisure, without causing any serious injury to any body's rights.
- IV.—In Section 30 of Chapter III, the Collector's fee should be fixed at two rupees. A fixed fee is always preferable to a discretionary fee. It saves time and enables the public to estimate the total cost of an application for a certificate under this Chapter.
- V.—In Section 61 of Chapter VIII the second paragraph should be struck out. It is contrary to all principles of justice to make the mere execution of an instrument without the same being duly stamped a criminal offence. Can any body say that the

Stamp Act is a perfect law and that the clauses are so well expressed as to admit of no difference of opinion regarding their construction? The public consider the Stamp Act to be the very reverse of a perfect law, and certain provisions contained in Chapter V for reference and revision seem to indicate that the Legislature itself had a shrewd suspicion that its work was not quite perfect. Then why should a man be criminally punished for a difference of opinion or mistake regarding the construction of a clause of the Stamp Act? If a registry officer or revenue officer could be prosecuted in the Criminal Courts for improperly impounding an instrument or improperly levying penalty thereon, it would be even-handed justice. As this is out of the question, so the Legislature should repeal at once the converse provision contained in Section 61. I am bound to say in fairness, however, that there have been few prosecutions under this paragraph of Section 61 in the Province of Bengal. Section 69 contains a very wholesome provision in restraint of prosecutions under this Act. No prosecution can be instituted without the sanction of the Collector; and the Collector, as a rule, does not give his sanction except in cases which disclose an intention to evade or defraud the revenue.

If Chapters III, IV and VIII of the Indian Stamp Act, 1879, be modified and recast on the above lines, the result will be, without impairing in any degree the efficiency of the legitimate safe-guards of the Stamp revenue, to abrogate sundry unjust rules and flagrant abuses which seem to have clustered round it. Such amendment will confer a great boon upon the deed-executing and deed-receiving public. It will greatly simplify the work of the revenue officers; and it will further relieve the Collector of a great deal of high-pressure and unpleasant work, leaving him more time to devote to more important duties.

#### *Part IV.—Customs.*

THE years 1859, 1860 and 1861 were prolific in Legislative Acts of a very high order of excellence. Some of the Codes had been long in preparation. But the Legislature itself consisted of statesmen and lawyers who could think clearly and wisely, and express their laws in clear and terse language. The legislation of those years marked the commencement of a new era, as "the celebrated Regulations of 1793" marked the commencement of the era of government by law in the

days of the East India Company. The subsequent legislation of both eras was disappointing, and showed a clear falling off from the early promise.

Among the Acts passed in 1859 was Act VII, for regulating the customs duty upon goods imported or exported by sea. It is instructive to consider what the rates of duty were under Act VII of 1859 shortly after India came under the direct government of the Crown and Parliament. Bullion and coin, precious stones and pearls, horses and other living animals, cotton wool and books were free both for import and export. The other free articles of import and export were as follows:—

<i>Free imports.</i>	<i>Free exports.</i>
Grain and pulse.	Sugar.
Ice.	Rum
Coal, bricks and stones (marbles and wrought stones excepted)	Spirits.
Books.	Tobacco.
Machinery for the improvement of the communications and for development of the resources of the country.	Raw Silk.

The general rate of duty upon imports was 10 per cent. and upon exports 3 per cent. *ad valorem*. There were special duties upon the following articles of import and export:—

*Imports.*

Tea, coffee, tobacco, haberdashery, spices, grocery, provisions, perfumery, plate and plated ware	...	20 per cent. <i>ad valorem</i> .
Cotton thread, twist and yarn	...	5 per cent. <i>ad valorem</i> .
Porter, ale, beer, and other fermented liquors	...	4 annas the imperial gallon.
Wines and liqueurs	...	2 Rupees " "
Spirits	...	3 " " "

*Exports.*

Grain and pulse of all sorts	...	2 annas the Indian maund.
Indigo	...	3 Rupees " "
Lac dye and Shell lac	...	4 per cent. <i>ad valorem</i> .

The charges made in the rates of duty between 1859 and 1864 were slight, and only in respect of particular articles, the general rate remaining the same as fixed by Act VII of 1859. By Act XXIII of 1864, the general rate of duty upon imports was reduced to  $7\frac{1}{2}$  per cent. *ad valorem*. Act XXV of 1865 made a few amendments and prescribed the following "duties specified in the two schedules A & B annexed to" that Act:—

*Schedule A.—Import duties.*

(1) Bullion and coin; (2) Precious stones and pearls; (3) Grain and pulse; (4) Horses and other living animals; (5) Ice; (6) Coal, bricks and stones; (7) Cotton wool; (8) Wool; (9) Flax; (10) Hemp; (11) Jute; (12) Hides and skins; (13) Books; (14) Paper; (15) Maps and prints; (16,

Seeds ; (1) Agricultural implements ; (18) Fire-wood ; (19) Machinery for purposes of agriculture, navigation or railways, (20) Military uniforms ; (21) Guano and other manure ; (22) Bottles. ... Free.

23. Wines and liqueurs ...	One rupee the imperial gallon.
24. Porter, ale, beer, cider, and other fermented liquors ...	One anna the Imperial gallon.
25. Spirits ...	3 rupees the " "
26. Iron (not including cutlery or hardware) ...	One per cent. <i>ad valorem</i> .
27. Hops ...	
28. Tobacco ...	Ten per cent <i>ad valorem</i> .
29. Piece goods ...	Five per cent. " "
30. Twist ...	Three and half per cent " "
31. All other articles not included in the above enumeration ...	Seven and half per cent. do.

*Schedule B. Export duties.*

(1) Bullion and coin ; (2) Precious stones and pearls ; (3) Horses and other animals ; (4) Rum ; (5) Spirits ; (6) Tobacco ; (7) Cotton wool ; (8) Flax ; (9) Hemp ; (10) Books ; (11) Maps and prints ; (12) Teak timber ; (13) Coal ; (14) Iron ; (15) Jute ; (16) Coffee ; (17) Tea ; (18) Sugar ; (19) Wool ; (20) Raw hides and skins ; (21) Raw silk, ... Free.

22. Grain and pulse ...	2 annas per maund.
23. Saltpetre ...	One rupee per maund.
24. Indigo ...	Three " "
25. Lac dye and Shell lac	Four per cent. <i>ad valorem</i> .
26. All country articles not enumerated or named above	Three per cent. <i>ad valorem</i> .

The next Act of importance relating to customs duty was Act XVII of 1867, which introduced the system of fixing a tariff valuation for all articles chargeable with an *ad valorem* duty. It raised the export duty upon grain and pulse from 2 annas to 3 annas per maund, but did not make any other material change in the rates of duty. It is not necessary to notice at any length Act XVII of 1870 and Act XVIII of 1871, which made some changes in the tariff valuation, but very few in the rates of duty. I pass on to the latest phases of legislation on the subject, to Act XVI of 1875, passed during Lord Lytton's Viceroyalty, and Act XI of 1882 passed during that of Lord Ripon. The one was "the beginning of the end," and the other "the end" itself of the customs revenue. These two Acts afford striking illustrations of the disastrous effects upon India of the party government in England. For some time past the good people of Manchester have interested themselves, doubtless from exalted and disinterested motives, about our clothing, and have been persistently representing to the authorities in England that an import duty upon cotton goods was contrary to the true principles of free trade, and that such duty was really a tax upon the people of India for wearing clothes. Now the good people of Manchester have the election of several Members of Parliament in their hands,

and their arguments, therefore, easily convinced both the Conservatives and the Radicals. "Where they do agree, their unanimity is wonderful." The two parties emulated with each other in making concessions to the cotton interest to show their appreciation of its convincing logic.

Lord Lytton, under a Conservative administration, reduced the general rate of import duties from  $7\frac{1}{2}$  per cent. to 5 per cent.; while Lord Ripon, under a Radical administration, repealed the import duties altogether and with them the export duties also, retaining the customs duty only upon the following few articles:—

<i>Imports.</i>	<i>Exports.</i>
1. Arms and ammunition.	Rice.
2. Liquors, wines, and spirits.	
3. Salt.	
4. Opium (not covered by a Government pass).	

The loss of customs revenue caused by the two Acts will be seen from the following extract from table No. 1 at page 121 of the statistical tables for British India compiled in 1888:—

Years.					Total custom <sup>d</sup> duty collected on Imports, exclusive of salt.
1873-74	...	...	...	...	£ 1,677,974
1874-75	...	...	...	...	" 1,814,068
1875-76	...	...	...	...	" 1,776,896
1876-77	...	...	...	...	" 1,653,674
1877-78	...	...	...	...	" 1,875,903
1878-79	...	...	...	...	" 1,646,665
1879-80	...	...	...	...	" 1,592,287
1880-81	...	...	...	...	" 1,771,358
1881-82	...	...	...	...	" 1,555,237
1882-83	...	...	...	...	" 431,105
1883-84	...	...	...	...	" 436,760

The manner in which the two Governments dealt with the import duties seems to be characteristic. The Conservative Government proceeded cautiously and made a reduction in the rates of duty which, owing to a timely expansion of trade, did not affect the revenue in any serious degree. The customs revenue from import duties was £1,814,068 in 1874-75, previous to Act XVI of 1875, and fell to £1,653,675 in 1876-77, after the Act had come fully into operation. The fall was only 9 per cent. The Radical Government, more swayed (as Radical Governments are) by party considerations, and reckless of consequences, repealed the import duties altogether, except on three or four articles which could not well be freed on account of the excise, opium, and salt revenue. The revenue from import duties fell from £1,771,358 in 1880-81 to £431,105 in 1882-83. The sacrifice of revenue was upwards of 75 per cent., being



£1,340,253=Rx 1,795,731. It was 30 per cent. more than the income-tax collected in 1886-87. (See table in Part II.) Is it at all surprising that such a large sacrifice of revenue should disarrange the finances of India, never in a very prosperous condition, or necessitate the introduction of an income-tax to restore equilibrium? However unpleasant it may be to the thick-and-thin worshippers of Lord Ripon, these facts and figures compel me to say that we must lay the income-tax at the door of Lord Ripon, and that hitherto we had laid it at the wrong door. When the large sacrifice of revenue was made in 1882, all sensible men should have foreseen that it would, at no distant date, bring on the imposition of a direct tax to recoup the loss. It seems to me that Act XI of 1882 was a most impolitic measure, and one of the least defensible acts of Lord Ripon's administration. The reduction of a duty that had been paid for a long time, although it involves a present loss of revenue, does not cause much serious mischief. The Government has always the power of regulating the duty and of raising it, if the exigencies of the State so require. But to repeal a duty altogether is a very different thing. It becomes very difficult for any succeeding Government to re-impose such duty, without incurring an amount of odium and unpopularity which few Governments care to risk. What will the cotton interest of Manchester say? Its good opinion is of great value to any Government.

Although the Act of 1875 was comparatively harmless, while the Act of 1882 was disastrous for the finances of India, yet, all things considered, the moral blame of the repeal of the import duties must be shared equally by the two parties in England. The reduction of the import duties by the Conservatives was a distinct party move and a bid for the Manchester votes. They are, therefore, fully open to the reproach of having first set an evil example, while the Radicals, in following such example, altogether flung moderation to the winds, and surrendered themselves body and soul to the fetish of "party." "The villainy you teach me I will execute, and it shall go hard, but I will better the instruction." As soon as their time came, they at once made an abject bid for the Manchester votes by repealing the import duties altogether.

Should the import duties be restored, and how? This is a large problem and one which well merits the attention of Indian statesmen. The Indian finances are by no means in a satisfactory condition. What with the frontier defences, low exchange, periodical famines, and pacification of Burma, with one thing or another always on its hands, the Government of India has for many years found it difficult to make two ends meet. As remarked by the Right Honorable James Wilson in 1860, deficits

seem to be the normal condition of the finances of India. An income-tax was imposed in 1886. The salt-tax was increased from Rs. 2 to Rs. 2-8 for India, and an import duty upon petroleum imposed in 1888. But all this new and increased taxation has not sufficed to make things straight. The salt-tax has reached its limit in India and cannot be raised any higher. It may be possible to increase it in Burma. But the increase of salt revenue in that Province will necessarily be slow and small. The income-tax cannot well be enhanced during a time of peace. Then the revenue from opium is precarious. The present net revenue from that source is upwards of six millions of Rs. (See Table in Part II.) Ought not the Government to make timely provision for the contingency of its loss? That contingency is certain to occur; it is only a question of sooner or later. These considerations induce me to think that the import duties must be re-imposed. I have heard a great deal of cant about free-trade principles, but have been unable to see their applicability to the import duties as they stood at the time of their repeal. The Honourable Samuel Laing says (Financial Statement, April 27th, 1861):—"The principle of free trade is to impose taxes for purposes of revenue only, and if yarn be a fit subject for taxation, there ought to be an excise on the native manufacture, equal to the customs duty on the import article, unless the latter be so small in amount that it would be palpably not worth while to establish a countervailing system of excise. With a 5 per cent. import duty, this might be the case; but, at any higher rate, untaxed native yarn would manifestly be a protected article." This seems to be the true exposition of the principles of free trade. If an import duty be moderate, not exceeding 5 per cent *ad valorem*, and imposed *bond fide* for purposes of revenue and not for the purpose of protecting an article of home produce, it is not contrary to the principles of free trade. With reference to the repeal of the cotton duties, Sir Richard Garth, in his "Few Plain Truths about India" says:—"Of course we all know the true reason for that measure. We all know that it was the pressure put upon England by the Lancashire cotton spinners, although the pretext assigned for it was the plausible one of free trade. But what have we to say with regard to gold and silver manufactures? England's manufactures of that kind have long been admitted into India duty free, whilst similar Indian manufactures are still subject in England to a heavy import duty. Let us hope, from what we hear, that this injustice may soon be discontinued; but it has lasted long enough to make India doubt the sincerity of England's free trade principles. And what have we to say to the Indian tea industry? No men in the world have worked

harder, or under greater difficulties, to establish their position than the tea planters in India. What has England done to aid those men? Have we given them the benefit of our vaunted free trade principles? Although tea is one of the necessities of life, and many people would say, *one of the special necessities of the poor*, Indian tea is now paying a duty to England of six pence per pound, amounting annually, I believe, to upwards of two millions sterling. Is this free trade? Does the duty upon Indian coffee or Indian rice savour of free trade?" Sir Richard Garth's notions of free trade appear to be somewhat hazy. Subjecting the gold and silver manufactures of India to a heavy import duty is, no doubt, contrary to its principles, because it is protective of the same articles of English manufacture. But a heavy tax upon tea or other necessity of the poor has nothing to do with it, because England does not grow any tea which such a tax is likely to protect. It seems that even foreign wheat or other corn may be heavily taxed in England without contravening the principles of free trade, provided that there be a countervailing excise on the British produce. I apprehend the doctrine of free trade to be this, that no Government ought to impose a heavy duty upon a foreign article so as to favor and foster the producers of that article in the country, and by keeping up its price, to make it profitable to them to produce it. The heavy duty falls indirectly upon the consumers. They may make a grievance out of it and complain that they are made to pay a higher price for the article than is necessary, in order that the producers of the home article may thrive. The logical consequences of this doctrine are that every industry, which cannot stand foreign competition, must perish. To adopt this principle in a rich country where the wages of labor are high, would seem to be questionable wisdom. For if the principles were fully acted upon, most of the industries in England must succumb in time to foreign competition. But there is this peculiarity in the political principles of that country, that they are always subordinate to the curse of party consideration. The principle of free trade seems to have been roused into action for the purpose of repealing the corn laws which favored and protected the agricultural interest at the expense of the urban population. Its mission accomplished, it is again dormant and quiet. Neither of the parties in England think of invoking it with reference to the high import duty upon gold and silver manufactures.

It seems to be pretty clear that a moderate import duty, not exceeding 5 per cent., may be re-imposed without a countervailing excise upon the piece goods produced by our mills. Something more may be conceded to Manchester as a sop. It can have nothing reasonable to urge against a low duty of 2½ per cent. *ad valorem* upon imports. For the rehabilitation

of the customs revenue, I would suggest, as an initial measure, the imposition of a  $2\frac{1}{2}$  per cent. *ad valorem* duty upon imports, and a one per. cent. *ad valorem* duty upon exports. The duty upon exports should always be less than one-half of the duty upon imports. This has always been the proportion of the two descriptions of customs duty. The freight which imports pay are usually small compared to the heavy freight which exports have to pay. There are other economic considerations, besides, in favor of a low export duty. The duties on both imports and exports being light, there should be very few exemptions. Bullion and coin, precious stones and pearls, horses and other living animals should be free both for imports and exports, but no other articles either of import or export. Special import duties should be retained upon the following articles, *viz.*, arms and ammunition, liquors, wines and spirits, salt, opium and petroleum. There should be no special export duty upon any article. The present heavy duty of 3 annas per maund, equal to 4 or 5 per cent. *ad valorem*, upon rice is a highly objectionable tax. It falls chiefly upon the two Provinces of Bengal and Burma, which export by far the largest quantity of rice. Wheat exported from the several provinces of India is now equal in value to the rice exports. There should be an equal duty upon all dutiable articles of export, and the duty so low that it should not be felt by the producers.

The following extract from table No 4, at page 1888 of the statistical tables for British India compiled in 1888, shows the value of the chief articles of foreign merchandize imported into India in 1886-87, exclusive of articles now paying duty :—

	£.
1. Apparel and haberdashery ...	1,001,848
2. Coal ...	1,340,049
3. Cotton goods ...	29,172,231
4. Drugs and medicines ...	393,646
5. Glass and glass-ware ...	508,818
6. Hardware and Cutlery ...	928,450
7. Machinery and Mill work ...	1,429,764
8. Metals, raw and manufactured ...	4,845,736
9. Oils ...	1,408,430
10. Paper and paste board ...	392,621
11. Provisions ...	1,179,474
12. Silk, raw, and silk goods ..	2,047,111
13. Spices ...	663,845
14. Sugar, refined and unrefined ...	2,080,540
15. Umbrellas ...	274,461
16. Woollen goods ...	1,660,905
17. Other articles, exclusive of arms, ammunition, opium and petroleum, estimated at a moiety of the whole ...	3,248,257
Total Rs. ...	<u>52,576,186</u>

An import duty at  $2\frac{1}{2}$  per cent. upon the above articles, which are now free under Lord Ripon's Act, would produce £1,314,353, a sum very nearly equal to the loss of customs revenue caused by that Act. If it be necessary for the purposes of revenue to raise the duty hereafter to 5 per cent., it can be very easily done. To appease Manchester, it will be necessary to impose a  $2\frac{1}{2}$  per cent. excise upon the cotton goods manufactured by our mills. There is no competition—there never was any—between the Manchester goods and cloth made by our weavers. The two articles are quite distinct from each other. The excise will, therefore, be limited to machine-made cloth, the produce of our cotton mills, and to such portion of it as is consumed in the country. A large portion is exported to China and other countries which will pay an export duty instead. There is an impression that the assessment of excise will be a matter of some difficulty. Our financiers say, how can we re-impose the import duties without a corresponding excise upon the produce of our cotton mills? They seem to consider this as an insuperable objection. But there does not appear to me to be anything formidable in it. If, for the re-imposition of the import duties, it be necessary to have an excise, let us have it by all means. It will be limited, for the reasons stated above, to such portion of the produce of our cotton mills as is sold to country dealers for home consumption. The mills are few in number. There will be no great difficulty in ascertaining the quantity and value of the excisable produce from the books of the firms.

In verification of my remarks regarding customs duty upon exports, I append the following extract from table No. 8. at pages 198-199 of the statistical tables for British India compiled in 1888, showing the quantity and value of our chief articles of export in 1886-87, exclusive of treasure :—

ARTICLES.	Quantity exported in 1886-87.	Value.
		£
Coffee ... ..	Cwt. 374,951	1,514,777
Cotton, raw ... ..	" 5,435,862	13,475,963
Cotton goods, including twist and yarn ... ..	.....	5,854,378
Indigo ... ..	" 138,396	3,691,677
Rice ... ..	" 26,460,000	8,764,809
Wheat ... ..	" 22,263,624	8,625,986
Other kinds of grain ... ..	.....	636,819
Gums and resins ... ..	" 243,946	428,513
Hides and skins ... ..	.....	5,149,358
Jute, raw ... ..	" 8,306,708	4,869,815
Jute, manufactures ... ..	.....	1,115,865
Lac ... ..	" 149,439	520,675
Oils ... ..	Gals. 4,322,649	472,719
Opium ... ..	Cwt. 131,630	11,077,671
Provisions ... ..	.....	559,050
Saltpetre ... ..	" 398,113	379,471
Oilseeds and other seeds ... ..	" 15,906,515	9,222,863
Silk, raw ... ..	lbs. 1,708,529	520,313
Silk manufacture ... ..	.....	355,693
Spices ... ..	" 33,321,707	706,661
Sugar ... ..	Cwt. 1,144,718	702,020
Tea ... ..	lbs 80,557,329	4,883,143
Wood ... ..	.....	302,507
Wool, raw ... ..	" 33,749,121	1,342,807
Other articles ... ..	.....	3,272,508
	Total	£88,470,117

The information contained in the above extract will, doubtless, be interesting to my readers, for whose benefit I shall give a few more extracts containing information equally interesting.

Of rice, wheat, and other food grains exported in 1886-87—

			£
Bengal exported rice	valued at	...	2,302,587
And wheat and other grains	"	...	2,842,670
Bombay, wheat and other grains	"	...	6,684,672
Burma, rice	"	...	5,540,047
And Madras, rice	"	...	580,038

Of raw cotton and cotton goods, exported in 1886-87—

			£
Bengal exported raw cotton	valued at	...	1,695,480
Bombay, raw cotton	"	...	10,337,159
And cotton goods	"	...	5,302,245
Madras, raw cotton	"	...	1,375,828
And cotton goods	"	...	446,424
And Burma, raw cotton	"	...	67,496

Of our cotton goods, including twist and yarn, exported in 1886-87—

China received cotton goods	valued at	...	£ 2,860,149
The Straits Settlements,	"	...	393,333
Arabia and Persia	"	...	891,796
And other countries	"	...	1,156,973

The extract from table No. 4 given above shows the chief articles of foreign merchandize imported into India in 1886-87, now free under Lord Ripon's Act. Their total value is £52,576,186. The value of the other imports of foreign merchandize in 1886-87, being liquors, wines and spirits, salt, arms and ammunition, opium and petroleum, which are dutiable, and Railway materials and stores, mostly for State Railways, is £9,201,165. The grand total of imports is, therefore, £61,777,351. It is less than the exports by nearly £27,000,000. Our exports have always been considerably more than the imports. Two extracts from table No. 1 of the statistical tables are given below, showing the value of imports and exports of merchandize and treasure during the last five years. :—

*Merchandize.*

Years.	Value of imports of merchandize.	Value of exports of merchandize.
	£	£
1882-1883	52,095,711	83,485,123
1883-1884	55,279,348	88,176,090
1884-1885	55,703,672	83,255,292
1885-1886	55,655,865	83,881,264
1886-1887	61,777,351	88,471,117

*Treasure*

Years.	Value of imports of treasure.	Value of exports of treasure.
	£	£
1882-1883	13,453,157	1,042,059
1883-1884	12,877,963	1,010,307
1884-1885	13,888,198	1,970,030
1885-1886	15,477,801	1,108,237
1886-1887	11,053,319	1,720,516

If we take an average of the five years' imports and exports, it will be found that the excess of exports over imports of

merchandise is about thirty millions sterling, and that of imports over exports of treasure about twelve millions sterling a year. If no money had to be remitted from India to foreign countries, there would be an influx of treasure to the extent of the whole of the excess of merchandise exports over imports—about thirty millions sterling a year. As it is, about twelve millions sterling of treasure remains and is annually absorbed in India. The other eighteen million goes out of the country, the great bulk of it to England, and represents the average net remittances of money to that country per annum. By net remittance, I mean the excess of remittance to, over the remittance from, a foreign country. It appears from the Finance and Revenue Accounts for 1886-87 that the Government of India has to remit annually to England between fourteen and fifteen millions sterling.

Besides the remittances by the Government of India, Englishmen serving or working for gain in this country remit home their savings. Their aggregate remittance is about four millions; the total remittance from India being, on a rough calculation, about eighteen millions sterling a year, as shewn above. But, notwithstanding this large annual efflux, India retains a considerable amount of treasure and is becoming richer every year by about twelve millions sterling. It is not true, therefore, that the country is becoming impoverished under the British rule. It would be a mischievous misrepresentation to say that it was. Yet this seems to be the theme of declamation of a large number of political agitators and grievance-mongers. That the wealth of India in precious metals has greatly increased and is increasing every year is clear from a fact which may be verified in any Hindu family. A generation or two ago the females in well-to-do middle class families wore silver ornaments. Now they will wear nothing lower than gold, with a tendency to rise to diamonds, pearls, and precious stones. Silver ornaments are now worn by the wives and daughters of peasants and labourers, who formerly wore lead and brass.

It ought to be borne in mind that the extensive foreign trade of India is almost the creation of the British Government. Tea, indigo, silk and some other staples of export are almost exclusively the production of British capital and British skill directing Native labor. The same may be said of the Railways, without which there could not be any large export trade in raw produce. Our foreign trade seems to be—

“Twice blessed,

It blesseth him that gives, and him that takes.”

It makes India richer every year by about twelve millions sterling, and England by about eighteen millions. It is a mistake to think that she has taken away, or takes away any



portion of the old wealth of India. She simply takes a share, a very large share, no doubt, of the wealth which she helps India to acquire every year. But there is ample consideration for it. Of the Government remittance to England, amounting to about fourteen millions a year, eight millions, or more than one half, is on account of interest on British capital sunk upon Railways and irrigation works in India, or borrowed by the Government in times of need ; three-and-a-half millions, or about one-fourth, is for the Army charges or cost of British soldiers serving in India ; and two millions for payment of pensions and furlough allowances of European British subjects in the Civil Service of India. The cost to India under the head of General Administration in England is only about a quarter of a million. The amount (about four millions) annually remitted to England by firms or individuals is partly interest on British capital laid out by them in various commercial undertakings in India, and partly their savings or net profits sent home.

MOHINY MOHUN ROY,

*Pleader of the Calcutta High Court,  
and Ex-member of the Bengal Legislative Council.*

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[To be continued.]

## ART. VII.—TRIAL OF QUESTIONS OF FACT IN BRITISH INDIA.

I HAVE received ample demonstration, from my daily experience in the courts, that the existing law for the trial of questions of fact requires reformation. The principal defect of which I complain is this, that both in civil and criminal cases as a rule, the existing law allows an Appellate Court to reverse the decision of the Court of first instance upon a question of fact, and come to a finding different from what the Court of first instance arrived at, merely upon a perusal of the evidence recorded by that Court (Section 418, Act X of 1882, Code of Criminal Procedure, and section 540, Act XIV of 1882, Code of Civil Procedure).

The Appellate Court, whether consisting of a single judge or a bench of judges, is entirely without the best means of arriving at a right conclusion upon a question of fact, namely the opportunities of observing the demeanour of a witness while under examination. It is difficult, if not impossible, for the Appellate Court to come to a correct conclusion upon a question of fact merely upon a perusal of the evidence recorded by the lower Court. It may be said that the judge of the Appellate Court is more experienced than the judge of the lower Court. But experience cannot compensate for the want of one of the most useful means of arriving at a right conclusion upon a question of fact; while it may often happen that the judge of the Court below is really more experienced than, or at least as experienced as the judge of the Appellate Court. In the words of Mr. R. Carstairs, in his article "Civil Justice in the Santal Pergunnahs,"\* "an Appellate Court seeking to revise a decision as to facts based on evidence taken by another, would be just as likely to commit an error as to correct one." Blackstone,† speaking of the superiority of *viva voce* examination of witnesses over examination by interrogatories, observes: "In short, by this method of examination, and this only, the persons who have to decide upon the evidence have an opportunity of observing the quality, age, education, understanding, behaviour and inclinations of the witness; in which points all persons must appear alike when their dispositions are reduced to writing, and read to the judge in the absence of those who made them; and yet, as much may be frequently collected from the manner in which the evidence is delivered, as from the matter of it."

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\* *Calcutta Review* No. CLXXIV. for October 1888, page 345.

† Stephen's Com., vol. 3, p. 620, 4th edition.

It is useless to inquire for what length of time this rule, allowing Appellate Courts to decide questions of fact by a perusal of the record, has prevailed in India. Whatever might have been the practice in Hindu or Mahomedan periods, the rule in question seems to have prevailed in the mofussil Courts, or rather the Sudder Courts and the Supreme Courts, except in criminal trials in the latter Courts, from the commencement of the British rule. The rule, it seems had its origin in the apprehension that a single judge deciding a question of fact, unassisted by a jury or assessors, might come to a wrong decision upon a question of fact, either through inexperience, mistake, or perversity. Regulation VI of 1832 of the Bengal Code empowered, for the first time, European functionaries to avail themselves of the assistance of respectable natives in the administration of civil or criminal justice. Section III of the said Regulation is as follows :—

*III. First.* In the trial of civil suits, original or appeal, it shall be competent to every court, in which an European officer thus empowered presides, to avail itself of the assistance of respectable natives in either of the three following ways :—

*Second.* First, by referring the suit, or any point or points in the same, to a punchayet of such persons who will carry on their enquiries apart from the Court, and report to it the result. The reference to the punchayet and its answer shall be in writing, and shall be filed in the suit

*Third.* Or, by constituting two or more such persons assessors or members of the court, with a view to the advantages derivable from their observations, particularly in the examination of witnesses. The opinion of each assessor shall be given separately and discussed; and if any of the assessors, or the authority presiding, in the court shall desire it, the opinion of the assessors shall be recorded in writing in the suit.

*Fourth.* Or, thirdly, by employing them more nearly as a jury. They will then attend during the trial of the suit, will suggest as it proceeds such points of enquiry as occur to them; the Court, if no objection exists, using every endeavour to procure the required information, and after consultation, will deliver in their verdict. The mode of selecting the jurors, the number to be employed, and the manner in which their verdict shall be delivered, are left to the discretion of the judge who presides.

*Fifth.* It is clearly to be understood that, under all the modes of procedure described in the three preceding clauses, the decision is vested exclusively in the authority presiding in the Court.

By the 4th section the Commissioners of Circuit and Sessions Judges were enabled to avail themselves of the provisions of section three. This Regulation was repealed, as regards criminal cases, by Act XVII of 1862, the provisions of which for trial with assessors or juries were re-enacted in the First Code of Criminal Procedure, Act XXV of 1861, with modifications, while its provisions as regards civil suits were repealed by Act VIII of 1868, but not re-enacted by any subsequent legislation. The

rules of practice laid down by the Sudder Court under the above Regulation, may be found in Beaufort's Digest.

The next defect in the trial of criminal cases that I would point out is, that where a Sessions Judge trying a case, with assessors concurs with them in finding an accused person guilty or not guilty, the law in force allows an appeal upon facts. This, in my opinion, ought not to be the law. For the Appellate Court, if it sets aside the finding of the lower Court, runs the risk of coming to a wrong conclusion upon questions of fact. A Sessions judge, concurring with the assessors, finds a prisoner guilty of murder, and the High Court upon appeal, taking into consideration certain circumstances in favour of the accused, acquits him. This gives a great chance of escape to the guilty, and there is no certainty that the High Court would be right in its conclusions. But if the assessors disagree with the judge, in that case alone the law should be such as to allow the Appellate Court to go into the facts. For then the Appellate Court will have before it the opinion of the judge as well as of the assessors, and upon a perusal of the evidence, it may be able to judge which view of the facts was correct. I do not find any good resulting from a trial with assessors except the one above indicated, and I am therefore inclined to think that trial with assessors might be altogether abolished, especially as the minimum number of jurors may be three or only one more than the number of assessors, (Sections 274 and 284 of the Code of Criminal Procedure) and the judge can disregard the opinion of the assessors. I would therefore propose that trial with assessors in Sessions cases be altogether abolished, and that by jury alone be retained. For the law has not attached to a trial with assessors that finality which it has to a trial with jurors. Trial with assessors is no better than trial by a Sessions judge alone: and one of the reasons why I wish it abolished, is because the law gives the Appellate Court power to decide upon paper evidence a question of fact in appeal.

As regards trials by jury, although section 418 allows an appeal in a trial with a jury upon a matter of law only, still when the Court of Sessions submits a case to the High Court for confirmation of sentence of death, the High Court, it has been held, is bound to go into the evidence (sections 374—376 of C. Cr. P., *Queen v. Jaffir Ali*, 19 W. R., Cr. 57.) In *Queen v. Ramsodai Chakrabarty*, (20 W. R. 19,) a verdict of a jury concurred in by the Sessions Judge was set aside, and the prisoner acquitted by the High Court by a majority of two Judges to one, on a submission for confirmation of sentence of death. Again, when the Sessions Judge disagrees with the verdict of the jury, and submits the case to the High Court under

section 307, the High Court is bound to go into the evidence. For the High Court to decide upon evidence in such submissions, is a matter of difficulty when the evidence for the prosecution and the defence is nicely balanced, or in other words, when the weight of evidence on either side is almost equal. The law which allows the High Court to come to a conclusion upon facts in these submissions, infringes the rule for which I am contending that the decision of a question of fact should be arrived at only by the Court which sees the witnesses examined. This is why I would advocate the system of trial by jury, because, in jury trials, questions of fact are finally decided by the tribunal which sees and hears the witnesses. The practice of deciding questions of fact on paper evidence on appeal ought to be stopped.

Now let us turn to the law for the trial of questions of fact in civil cases. The law allows no appeal from decisions of the Court of Small Causes. So far as the Calcutta High Court is concerned, it would not interfere with the decision of a Court of Small Causes upon a finding of fact in applications under section 622 and section 25 of the Provincial Small Cause Courts Act, 1887. Applications under the aforesaid sections are generally rejected by the High Courts, and the applicant has to smart for the loss of his money in making the application. The following is an extract from the speech of the Hon'ble Mr. Scoble in the Legislative Council on the occasion of the passing of Act VII, of 1888 for the amendment of the Code of Civil Procedure :—

"I will not detain the Council by a detailed reference to the remaining sections of the Bill; but there is one important omission to which I desire briefly to advert. A recent decision of the Privy Council (*Rájáh Amir Hasan Khan v. Sheo Buksh Sing*, L. R., I. A., 237) has given a more limited construction to section 622 of the Code than had been put upon it by the Courts in India; and many suggestions have been made with a view to the extension of the revisional powers of the High Courts to all cases in which there had been a material irregularity in procedure, or the decision was based on an erroneous view of the law. The Committee have not been able to adopt these suggestions, the more especially as they have been favoured with one by the Chief Justice of Bengal, which would have the effect of doing away with second appeals altogether, and substituting for them a right of application to the High Court as a court of review in all cases in which it could be shown that a failure of justice had occurred. This suggestion, coming from so high an authority, deserves, and will receive the most respectful consideration, and the Committee did not think it desirable to delay their report on this Bill for the purpose of consulting other authorities upon it."

With second appeals I shall deal a little further on. With respect to Small Cause Court cases, now that the jurisdiction of the Small Cause Courts has been increased to one thousand rupees, I would suggest that trials before officers invested with such powers, in cases above the value of rupees five hundred, should, if the parties so desire it, be with the assistance of a jury of not less than three jurors : questions of fact for the jury and of law for the judge. In case of a difference among the jurors, the opinion of the judge to prevail.

In cases other than those cognizable by the Small Cause Courts, the law allows one appeal in some, and two appeals in the rest. In cases below the value of five thousand rupees there are two appeals successively, one to the District Judge and another to the High Court. Again, in cases above the value of rupees ten thousand, there are generally speaking two appeals, one to the High Court, and another to the Judicial Committee of Her Majesty's Privy Council. In cases of the value of above five thousand rupees, and below ten thousand rupees, there is one appeal, and that to the High Court. Besides, in compensation cases and cases transferred from the file of Munsifs and tried by the District Judge, there is one appeal to the High Court. That an Appellate Court, generally speaking, cannot arrive at a right conclusion upon a question of fact merely from a perusal of the evidence recorded by the Court of first instance, can be shown almost to a demonstration in civil cases. In civil cases when no additional evidence is taken by the appellate court, as was taken in *Bigshy v. Dickinson*, (L. R. 4 Ch. D. 24 C. A.), or as is occasionally taken in Indian appellate courts, under Section 568 of the Code of Civil Procedure, there is the danger of the appellate courts coming to a wrong conclusion upon questions of fact. How often do we find the decisions of the High Courts, as courts of appeal in civil cases, reversed by the Privy Council, and those of the Courts of first instance restored upon questions of fact.\* And if the decisions of judges of the High Courts upon questions of fact, sitting in appeal, be often erroneous, how can we expect that the decisions of district judges and subordinate judges, sitting singly, (not in benches consisting of two judges as in the High Courts) in appeal, from courts of original jurisdiction in cases of the value of less than five thousand rupees (in Lower Bengal), should be right. It may be said that decisions of Courts of first instance

\* See *Mahomed Buksh Khan v. Hosseini Bibi and others*, 1. L. R. 15 Cal. 684. *Rajah Run Bahadur Singh v. Mussumat Lachoo Koer*, L. R. 12, 1. A. 23 (s. c.) 1. L. R. 11 Cal. 301, *Bunwari Lal v. Maharajah Hetnarayan Singh*, 7 Moore's Indian Appeals, 148 and many others. Several volumes of the Bengal Law Reports show that the Privy Council upset many more High Court decisions than they upheld.

affirmed in appeal by the Appellate Court have sometimes been reversed by the Privy Council.\* The answer is,—though such reversals of concurrent findings are comparatively rare, they are cases in which the Appellate Court, in affirming a decision of the Court of first instance, came to an erroneous decision upon facts. It shows that if the Court of first instance comes to a wrong conclusion upon facts, the Appellate Court instead of being able to set it right, perpetuates the mistake. In *Prubhuram Hazra v. The Bengal Coal Company*, reported in 8 Bengal Law Reports, the Privy Council upheld a decision of the Appellate Court which had reversed a decision of the Court of first instance, but such instances are still more rare. The reason that I would assign for the Sudder Courts or the High Courts having come to wrong decisions upon facts in appeal, is that these Courts had not the best means of coming to a right conclusion upon facts, *viz.*, the opportunity of observing the demeanour of the witness while under examination: and though the law enjoins the Courts of first instance to record any remarks as to demeanour of a witness in the witness-box, neither is it practicable to record all sorts of gestures made by witnesses, nor is it always done; nor, even if recorded, would the Appellate Court pay much attention to it.

Many a man will say: How then does the Judicial Committee of the Privy Council arrive at a conclusion of fact upon a perusal of the evidence recorded by the Court of first instance in appeals from India? To this I would answer: True, the Judicial Committee arrives at conclusions of fact just in the same way as our Indian Appellate Courts do but you cannot deny that as regards the credit to be attached to the evidence of a particular witness, their Lordships pay greater regard to the opinion of the Court of first instance than our Indian Appellate Courts do. Again, from the necessity of the case, the Judicial Committee must decide upon evidence recorded in the courts below, for who can think of witnesses being carried over the sea to give evidence before the Judicial Committee, whereas witnesses already examined by the Court of first instance may be produced before an Indian Appellate Court, though at the risk of some inconvenience to the witness, and of additional expense to the parties. And here I may be allowed to observe that in framing section 428 of the Code of Criminal Procedure and sections 568, 569 and 570 of the Code of Civil Procedure, the legislature ought not to have lost sight of the principle, that a court empowered to decide upon oral evidence, should see and hear the witnesses itself, and ought to have enacted that any

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\* *Cutt Ram v. Chowdhree Nowbut Ram*, 7 Moore's Indian Appeals, p. 207.

additional oral evidence, when allowed to be taken in appeal, *must* be taken by the Appellate Court itself and not by any other Court just in the same way as, in the Chancery Division of the High Court of Judicature in England, witnesses are now examined *viva voce* before the Court of first instance, instead of before examiners as was formerly the practice (see *Bigsby v. Dickinson* already referred to above). But, as a matter of fact, the Legislature seems to have wished to make the work of the Appellate Courts as easy as possible (see also sections 375 and 380 of the Code of Criminal Procedure). The duties thrown upon the Appellate Court are not commensurate with the power given to it.

In a very large proportion of civil suits, *e. g.*, in suits relating to land, and suits between landlord and tenants (but not suits cognizable by the Courts of Small Causes) of the value of less than five thousand rupees, a second appeal is allowed in Lower Bengal to the High Court, (see Section 584 of the Code of Civil Procedure, the Bengal Civil Courts Act, and section 153 of Act VIII of 1885.) Section 584 of the Code of Civil Procedure lays down in what cases a second appeal shall lie, and section 585 lays down that a second appeal shall not lie except as provided by section 584. The meaning of the two sections taken together is, that no appeal shall lie against a finding of fact. There is no definition of what is a finding of fact in the Code. The law leaves it to the breast of the judge or judges too much to say where a second appeal shall lie and where it shall not lie. In second appeal, the judges of the High Court will sometimes partially or fully go into the evidence and sometimes not. The law where a second appeal will lie, and where a second appeal will not lie is a matter of much uncertainty. A suitor who has won his case in the Court of first instance upon facts, but has lost it upon facts in the Court of first appeal, is almost sure to file a second appeal to try his chance, though it may be that every pleader whom he consults distinctly gives him to understand that there is no chance of success. He will not or cannot believe that the High Court would not do justice. As to the suggestion of Sir Comer Petheram, I have not had the opportunity fully of reading his views upon the subject. I take his Lordship's suggestion to be, that the decision of the lower Appellate Court, both upon a point of law or point of fact, should be final, unless the unsuccessful suitor in the lower Appellate Court be able to satisfy the High Court by way of motion, both upon the facts and the law of the case, that the decision of the lower Appellate Court is unjust, in which case the High Court shall have power to set matters right and do justice between the parties. This suggestion though it seems to be good in theory would not, I apprehend,



be really beneficial in practice. We know very well how the powers given to the High Court under section 622 of the Code of Civil Procedure are exercised, and how second appeals have fared under the test of 551 of the Code of Civil Procedure. The object of his Lordship's suggestion might be attained by enacting that, in second appeal, the High Court shall have full power to deal with the facts of the case : and that if the appellant, in second appeal, wants to dispute the findings of fact arrived at by the lower Appellate Court, he should give notice thereof to the Registrar of the High Court, and that thereupon the appeal should be heard and dealt with as an appeal from an original decree. Although I have an antipathy to all laws which give power to Appellate Courts to decide questions of fact upon paper evidence, I would not object to a change in the law as proposed above, as, in order to set right an erroneous finding of fact arrived at by the Court of first appeal, suitors have now to move the Judicial Committee to allow them to appeal to Her Majesty by special leave—a most costly machinery, and one which only rich people can afford to avail themselves of.

Now let us consider how the evil of which I complain, *vis.*, the decision of questions of fact by Appellate Courts on paper evidence can be remedied. The first as well as the best remedy in my opinion, is that in the class of civil cases which the Legislature would consider sufficiently important to deserve such a mode of trial, the trial should be with jury, on the application of any one of the parties. This would be a revival of Regulation VI. of 1832, with modifications, as regards civil suits.\* In trials by jury in this country, as the English system of trial by jury has not been introduced into India in its entirety, the judge's opinion upon any point of fact should be counted as at least one vote (if not two) in counting the majority of votes. The second remedy that I would propose is, that when a case is heard in the first instance by a single judge, the findings of fact properly arrived at by him should be final, and an appeal should be allowed from his decision to the High Court direct, but only upon a point of law. If the Appellate Court directs him to take any additional evidence, his opinion on that additional evidence should also be final. The taking of additional evidence by the Appellate Court is an anomaly : either that Court should try the whole case over again, or should take such additional evidence through the Court of first instance, and be bound by the opinion of that Court as to its credibility. The third remedy that I would propose is, that when the trial in the Court of first instance is by a single judge, and the Legislature thinks it advisable to allow an appeal upon facts from the decision

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\* In *Rai Sri Kishen v. Rai Huri Kishen* (5 Moore's Indian Appeals, p. 432)

of the Court of first instance, the Appellate Court should be bound to re-examine the witnesses already examined by the Court of first instance, and it should have power to use the evidence recorded by the Court of first instance in case of the death of the witness, &c., as provided by section 33 of the Evidence Act. The objection \* to this method is that the witnesses should be twice put to the inconvenience of appearing in the same cause to give evidence, once before the first Court, and again before the Appellate Court. Of course, the judgments of the Appellate Courts should then be declared to be final upon questions of fact, and in cases of the value of less than five thousand rupees, where second appeals are now allowed by law, a second appeal should lie to the High Court only upon a point of law.

Some people may ask : Has not the method of trying questions of fact by perusal of recorded evidence prevailed in India from the commencement of the British rule ? To this I would answer : If this practice has produced mischief in the past and is producing mischief in the present, surely we ought not to retain it any longer. A wrong principle of legislation once introduced is not easy to get rid of, and people who have become familiar with it do not easily see the evils arising from it.

The principle which underlies trial by jury in civil as well as criminal cases in England, and still prevails to a certain extent under the Judicature Act, is that questions of fact should be decided by that tribunal alone which sees and hears the witnesses. In England, in case of an appeal from a verdict of jury, if the Appellate Court reverses the finding of the jury as unreasonable and against the weight of evidence, it must send the case back to the Court of first instance for a new trial before another jury (*Metropolitan Railway v. Wright*, L. R. 11 App. C. 156). Perhaps the practice which was introduced into India was borrowed from that of the Court of Chancery in England. There cannot be any doubt that the practice of the Courts of Common Law was superior to that of the Court of Chancery in this respect. In the Common Law Courts the Appellate Court could not come to an independent finding of fact from a perusal of the record. I use the past tense because I do not know whether, when a single Judge decides a question of fact, under the option given to the parties under the Judicature Act, an appeal is now allowed upon facts in the Queen's Bench Division.

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\* [The Appellate Court should be bound to re-examine the witnesses only if, on a perusal of the evidence, it considered that the decision of the first Court on facts ought to be upset : but not if it was inclined to concur in the finding. This would prevent the needless re-examination of witnesses.—ED.]

At any rate the comparative merits of the system for trials of questions of fact in India and that of England require thorough discussion. It is my conviction, derived from considerable experience, that an Appellate Court should not be permitted to upset a finding of fact merely on a perusal of the record.

ROMESH CHUNDER BOSE,  
*Vakil, High Court.*

We should like to add a few words to the foregoing essay regarding the too prevalent habit of upsetting findings on pure questions of fact.

Presuming the honesty and average intelligence of the Lower Court, we are quite at one with the Reviewer on this point. The rash manner in which some Sessions Judges and District Magistrates upset the decisions of Lower Courts on pure questions of fact is simply deplorable, and most antagonistic to the cause of justice. Flimsy doubts and trivial discrepancies are allowed to prevail over the deliberate and well-considered opinion of a tribunal, which has seen and heard the witnesses, and considered every point in the case in a far more careful and thorough manner than the Appellate Court can have time to do. Of course, pleaders flatter the Appellate Court on its superior acumen, knowledge of the country, &c., in order to get a favourable decision: but I am only giving expression to a well-known fact, when I say that pleaders have a very low opinion of a Court, which often upsets the findings of Lower Courts on facts. Sir James Stephen remarks, in his minute on the Administration of Justice in British India: "Every system of appeal assumes the superiority of the Appellate Judge over the Judge of First Instance. This assumption fails in many cases in relation to Judges in India. Nothing is added to a man's real efficiency by calling him a Sessions Judge or a High or Chief Court Judge instead of a Magistrate, and by paying him a higher salary. My own opinion is, that mere length of service, after a comparatively short time, adds nothing to a man's efficiency. Most people, after a few years, are quite as good Judges as they ever will come to be." After speaking of England, Sir James Stephen says: "In India matters are different. No doubt an experienced man will differ from a new-comer. A full-power Magistrate will be, in every way, superior to an Assistant or Deputy Magistrate; but a Sessions Judge is simply a Magistrate grown rather older, and a High Court Civilian Judge stands in many cases in the same relation to a Sessions Judge, though the smallness of the number

of High Court Judges, especially in the Presidencies of Madras and Bombay, is undoubtedly a guarantee for a higher level of ability amongst them than amongst the Sessions Judges. . . . With regard to the other Courts, I cannot see what reason there is to suppose that the Appellate Judges (except the Magistrates to whom an appeal lies from their subordinates) should, as a rule, be abler men than the Judges from whom the appeal lies. Their superiority appears to me to be likely to be merely conventional, resting, not upon any personal difference between the men, but upon a difference between the names of their offices. . . . I cannot see what general grounds there are for supposing that, when the appellate and the inferior Courts differ, the Appellate Courts should be right and the inferior Courts wrong." It may be remarked that now-a-days a Sessions Judge is not a Magistrate grown older: the latter may be senior to the former. "Whether the course taken be appeal, reference, or revision, the proceedings, consisting of the notes of the evidence, the judgment of the Court, are forwarded to the superior Court, which, as a general rule, decides entirely on written depositions. The law, no doubt, authorizes Appellate Courts to direct further inquiries, new trials, &c.; but in practice this is seldom done, and when it is not, the process of appeal is simply this: the Court reads the record and the Judge's reasons, hears the advocates (if any), and decides according to the impression which these documents make upon it. This may be the best mode of hearing appeals which is practicable, but it is very unsatisfactory. Whatever may be the intrinsic superiority of the Appellate Courts over the Courts of First Instance (and this in many cases is very doubtful), they certainly have not equally good materials for their judgment, for *they judge upon hearsay evidence*, namely, the Judge's report of what the witnesses said." The italics are ours. The Appellate Court, which would be horrified if the lower Court admitted hearsay evidence, actually upsets decisions on similar evidence. This appears to be extremely presumptuous. In rare instances an incorrect decision may be remedied; but in far more numerous instances a correct decision is reversed. Sir James Stephen says: "The chance that the first decision will be right is better than the chance that any subsequent decision will be right, *particularly in criminal proceedings*." As regards alleged incompetency or corruption, Sir James Stephen says: "Even when Judges are incompetent or corrupt, they will, as a rule, give many more right judgments than wrong ones. Most cases are very plain. Generally speaking, it is both easier and more creditable to give a right judgment than a wrong one. Even if a bribe is given, it is quite as likely to be a fee for doing justice

as to be a fee for doing injustice. Hence the right to appeal is, as a rule, a right to contest a righteous judgment. The appeal will be brought more often by a man, who does not like to submit to a right judgment, than by a man who is aggrieved by a wrong one." He also points out that an absolute right to appeal reduces Courts of first instance to insignificance ; that the Court, whose judgment is to have no weight, has proper materials for forming an opinion, while what ought to be a good Court is given bad materials for forming an opinion upon a subject on which its judgment is to be conclusive ; and that double appeals reduce the intermediate Appellate Judge to the position of a superfluity.

Lower Courts—always given the conditions noted above—are no more likely to convict innocent persons than Appellate Courts. The more able an appellate tribunal, the greater its knowledge of the language, the country, and the people, the less likely is it to upset the finding of a lower Court on a question of fact. It seems almost a self-evident proposition that an Appellate Court, which often upsets the decision of a lower Court on a pure question of fact, is unfit for its responsible position ; it is convicted by its own action of weakness, inefficiency, or laziness, or a combination of all three. Of course the Appellate Court may be a better judge of the amount of punishment ; native Deputy Magistrates seem to go wrong very often in this respect. Moreover, the law may be wrongly applied to the facts. But if the issue is simply—"Did such an occurrence take place, or did it not?" and the lower Court finds that it did, the Appellate Court should be *debarred by law from upsetting such finding except after hearing the complainant and at least one eye witness*. The demeanour of the witness is *everything*, especially in criminal cases. The legislature has recognized this in making it *compulsory* for a Criminal Court to record material remarks regarding demeanour, (Act X, 1882, Section 363), whereas it is only optional for a Civil Court to do so (Act XIV, 1882, Section 188). It is now high time for the Legislature to shorten the ladder of appeal in the interests of the people and of justice. No doubt there will be opposition to such a measure from a comparatively small class. There are, no doubt, some who would not be satisfied if the ladder were as long as Jacob's ladder : they would still want a further appeal from the *forum cæli* to some "higher authority." But it is against such persons—unscrupulous and wealthy litigants, inferior legal practitioners, "torneys" and touts—that a beneficent Government should legislate, and not in their favour. We believe it is not an uncommon native feeling that it does not much matter if a criminal gets off : native sentiment has

not sufficiently broadened to recognize that public interests are as important, if not more so, than private interests. A civil suit may involve a few rupees on a bond, or a dispute as to whether a man's rent is Rs. 16 or Rs. 20. Surely a criminal case, even if not serious, is of at least as much importance. In a civil suit only property is at stake: in a criminal case life also, and honour, dearer than life, may be at stake. The prosecutor who has brought his oppressor to justice, and then sees him get off scot-free in a Appellate Court, is surely as much to be pitied as a poor civil suitor unable to cope with a more wealthy litigant: there is oppression in both cases, but that which comes to the criminal court is probably of a more serious and aggravated character. As things go at present, much valuable time and power is lost in the lower Court by having to fortify the record against the "*ineluctabile fatum*," the Appellate Court. If an Appellate Court is prone to upset, the pleaders merely appear in the lower Court to "prepare the record" for an appeal. This may seem exaggeration, but it is not so. If some evidence is objected to by the lower Court, some question allowed or disallowed, some attempt made to check irrelevancy, the matter is fought out, and the Court is pressed to make a full note of the objection, on the ground that "it may be of service to my client in a higher Court!" If this is the function of a Court of first instance, it would be better and cheaper to have the depositions faithfully recorded by some tortoise of a mohurir on Rs. 10 a month.

The evils of unlimited appeal are conspicuous to all who have had considerable experience of the administration of justice in this country. The evils far outweigh any possible advantage there may be in such a system. There is far too great a tendency for some Appellate Courts to upset the decisions of lower Courts on pure questions of fact; and we believe we are correct in stating that this is the opinion of the present Chief Justice of Bengal. In our opinion, the evils resulting from unlimited appeals are such as call for remedy at the hands of the Legislature.

H. A. D. PHILLIPS.

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## ART. VIII.—THE NOVELS OF EMILE ZOLA.

**I**T was remarked by Fletcher of Saltoun that he would be indifferent as to who made the laws of a nation, if he were only allowed to write its ballads: for the current literature of a people is a powerful agent in the formation and the cultivation of the tastes and habits of thought which it afterwards unconsciously reflects. The Novel of the nineteenth century has taken the place in popular literature of the ballad of the middle ages: and we gladly hear that it has been lately ruled in an English court of law that the English translations of the works of the French novelist, Emile Zola, come within the scope of Lord Campbell's Act as indecent literature, and are to be suppressed accordingly. Yet these translations are only a pale reflexion of the vivid language of the originals, which may be seen exposed for sale on the counters of the most respectable booksellers on the other side of the Channel.

The English translator had at least so much insular prudery left as causes him to throw a decent veil of inference and innuendo over the numerous passages where the great Master of the Modern Realistic School of novel-writing calls a spade a spade with the unblushing effrontery of the savages discovered by Captain Cook. Hence the English reader who searches the pages of "*Nana*," or "*l'Assommoir*" to gratify a prurient curiosity will most likely be disappointed. M. Zola himself disclaims the intention of ministering or pandering to any such curiosity. His office, according to his own shewing, is merely to hold the mirror up to nature: his plain speech is not the utterance of the guilt of fallen humanity, but of the pastoral innocence of the Garden of Eden. It is the nakedness of the untutored savage or of the Grecian statue, and not the nakedness of the Coryphée of the ballet, or of the Persian photograph. Why should the mention of the most ordinary and most natural actions and functions, the knowledge of which is universal, be universally tabooed and condemned?

It is perhaps a false modesty begotten of a corrupt civilization and a degenerate social order, that confounds in the mind what is harmless and natural with what is vicious and criminal in a common repugnance and reprobation. A state of pure innocence of evil would be like that of our first parents in Paradise before their fall, who were naked and were not ashamed:

and this is the ideal state to which the innocent M. Zola wishes the modern world to return. This is much the same apology as the American maniac who calls himself a poet, Walt Whitman, puts forward to excuse his own offences against the laws of decency as observed by civilized people: and of course is as impudent a perversion of truth and right as the use of the motto—"to the pure all things are pure," which Sir Richard Burton has cynically affixed to his faithful translation of the unexpurgated version of the *Thousand Nights*, which he raked out of the stews of Cairo. We regret to see that this abominable book is on the shelves of several public libraries in India: while the translations of Zola's novels, which have just been condemned as unfit for publication in England, are now exposed for sale on the railway bookstalls in India.\* However, they will probably do little harm, as their original indecency has been much toned down, and the books themselves are too dull to tempt a casual reader to wade through them. This, however, is the fault of the translation: for the style of Zola suffers as much in an English translation, as that of Dickens would in a French one; and, moreover, the translations are badly and carelessly done: there are mistakes in every page, while, owing to the general incapability of the translation, the spirit of the original has quite evaporated.

Zola may be called the Dickens of France in a certain sense, though he is no humourist as was Dickens; still, in his knowledge of human nature, his sympathy with the poor, and the detail of their daily lives, in his minute and accurate observation of every petty trick of gesture and speech and trait of character, with every minute detail of still life, he comes close to the great English novelist. His characters are eminently natural: they are real living men and women, without the travesty of caricature which spoils the naturalness of most of Dickens' characters, although it heightens the amusement of his readers.

It is the faithful representation of life as it really is, that forms the chief charm of these novels of Zola: and as might have been expected, his realistic pen has found in the sordid details of poverty and misery more attractive subjects than could be found among the easier and less chequered existence of the well-to-do classes. When Zola takes an occasional flight into the regions of the sublime and the romantic, he is as great a failure as Dickens was under the same conditions:

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\* [From a letter which appeared in the *Pioneer* of the 22nd February last, it would appear that the translations for sale at the bookstalls of Messrs. Wheeler and Co., are not the literal translations of Messrs. Vizately and Co., but those of Messrs. Peterson of Philadelphia, which are said to be unobjectionable or less objectionable—ED.]



and nothing can be more ludicrously unlike the passions and actions of human beings, than the story of the loves of Serge and Albine in the "Tante de l'Abbé Mouret."

Zola's novels are in striking contrast to the style of romance which has hitherto dominated French fiction. Balzac, Eugene Sué, Dumas and George Sand may be taken as typical authors of the romantic school with its wondrous tales of Sybaritic luxury and more than oriental grandeur, whose dark and mysterious heroes quaffed the purple wine, and whose heroines were beautiful and loveable ladies of the *demi-monde*, who revelled in every luxury, and illustrated every virtue except that of chastity. These wretched productions painted vice as a manly accomplishment, and the acquisition and enjoyment of wealth as the aim and end of human endeavour. The striking general decay of courage and virtue in the sons of modern France may probably be traced, in a great measure, to the universal prevalence of this pernicious literature, with its flabby sentiment and false morality.

Zola's books are almost a relief after Monte Christo and the Three Musketeers. His colliers and washer-women, coarse and foul-mouthed though they may be, are refreshingly human after the bravos and masked ladies whom we never saw anywhere except on the stage of transpontine melodrama. And Zola at all events seeks to throw no halo over vice. In "Nana," his heroine does not recline, decked with pearls, on amber satin cushions, and puff scented cigarettes, while her curled and perfumed adorers entertain her with their witty and graceful *persiflage*. On the contrary, the repulsive reality, the disgusting discomfort of her ways of life, are portrayed with a photographic fidelity: and the reader rises from its perusal with a holy horror of the vice which she typifies. "L'Assommoir" is the title of a drinking tavern which gives its name to the miserable story of a humble home ruined by drunkenness; and no apostle of Total Abstinence could have penned a more convincing and more eloquent picture of the debasing and degrading effects of that horrible pest of society. After reading "L'Assommoir" the most seasoned toper feels inclined in spirit to forswear the service of the fiend who has enthralled him, and to vow himself a Rechabite for ever.

Hence Zola's works, in spite of their indecency, can hardly be termed immoral.

If treating of immoral subjects be immoral, then our author must certainly be condemned along with the *Pall Mall Gazette*, and other similar publications, which justify their own existence by a high moral purpose, and advocate the cause of purity and temperance in language which, we very much regret to say, is often foul and intemperate. M. Zola also claims that he is

carrying out a high moral purpose in the remarkable series of novels that continues to flow from his facile pen. He is, in his own estimation, a Juvenal, arisen in these days to lash the follies of a modern world settling down into a social and moral corruption like the degenerate Pagan world of the Roman Empire: and so far as modern French society goes, if his books at all faithfully mirror the condition of that society, his contention may be true. If we take popular literature as a standard of the public taste, it would not be easy to find a more striking illustration of the difference existing between the manners and customs of France and England in the matter of social decency and Press morality, than the fact that the works of the most popular and most widely read of modern French novelists render even Bowdlerized translations in England liable to criminal prosecution. To keep the stream of literature pure and undefiled is a worthy object for the legislature, and we hope to see such measures one day taken in India as may prevent the circulation, not only of the translations of French novels, but of such poisonous trash as Burton's edition of the Arabian Nights, and the prose stories in the first part of the *Kulliyat-i-Kaâni*.

No doubt M. Zola's vast popularity in France arises mainly from his marvellous fidelity in portraying the most commonplace incidents of daily life, and the characters and actions of men and women of the work-a-day world as they really are. He has taken, at the flood, the tide of re-action which was inevitable against the theatrical plots and fairy-tale characters of the novels of Balzac, Dumas, and their *confrères* of the romantic school. The flagrant indelicacy which disfigures his works does not furnish, as in the novels of Paul de Kock, the "raison d'être" and the turning point of the story, but is introduced incidentally, and as a matter of course.

But the fact is that the taste of the French reading public has been so depraved by the productions of the filthy writers of the school of Paul de Kock and his tribe, that no novel has a chance of success which does not pander to the vulgar appetite: and Zola has outdone his predecessors in this respect, by tickling the jaded palate of his public with food stronger and coarser even than its accustomed literary garbage.

His earlier novels and tales were of the usual type of sensational French fiction, but his reputation was founded by the series of books called "*Les Rougon-Macquart*," the history of the successive generations of the connected families bearing those names to which all his famous works belong, and of which he has already published some dozen volumes, commencing with "*La Fortune des Rougons*" which sets forth voluminously the history of the origin and rise of the family.

The author announced a two-fold object in the production of this series: the tracing of the principle of heredity through all the various members and stages of descent of a family: a kind of Darwinian development of the qualities of the human being in his or her descendants as modified by individual character and the force of circumstances: and secondly, an exposure of the rotten state of society under the Empire of Napoleon the Third, and the social corruption of which it was the cause.

"La Fortune des Rougons" is the first novel of the series, treating of the birth and youth of Pierre Rougon, and the rise of his family into importance along with the Second Empire on the success of the Coup d'Etat of December 1852. An old *propriétaire*, living in a small country house on the outskirts of the town of Plassans in the south of France, has an only daughter named Adelaide, a nervous and weakminded girl, who falls in love with her father's gardener, a stolid peasant of the name of Rougon, and marries him on her father's death. They have one son named Pierre; and Rougon dying in the boy's infancy, Adelaide falls into the clutches of a dissolute scamp named Macquart, a smuggler and a poacher, by whom she has two children, Antoine and Ursule.

Macquart is shot in a smuggling fray by the *gens d'armes* on the Spanish frontier, and poor Adelaide loses the little wits she had ever possessed. The three children grow up together: and Pierre, who unites the stolidity of his peasant father with the *bourgeois* cunning of his maternal grandfather, gets his mad mother and her property entirely into his own hands, and contriving to evade the conscription himself, gets his half-brother, Antoine Macquart, drafted into the army with which the Great Napoleon was then fighting the Allies in Spain and Germany. Ursule is married to a tradesman of Marseilles; and Antoine comes back to Plassans as a discharged soldier after Waterloo, and a thriftless ne'er-do-weel, sponging on Pierre Rougon who has robbed him of his share of his mother's property. All these three have children and grand-children, and the life of each of these forms the subject of one or more novels of the series. Pierre Rougon makes a good marriage, and his clever managing wife proves a greater fortune to him than her dowry. Their eldest son Eugene goes to Paris to study law, and there attaches himself to the fortunes of the Prince Président, is admitted into his secrets, and is thus enabled to advertise his father of the coming *coup d'état*, which Pierre Rougon parodies in Plassans with the aid of the local gendarmerie and a couple of dozen of the bourgeois tradesmen, whom his energy and the tact of his wife Felicie induce

to follow him, shaking in their shoes. A counter demonstration by the revolutionists of the neighbourhood is opportunely quelled by the arrival of the troops who suppress it with merciless severity. Silvére, the son of Ursule Macquart, is living at Plassans with his crazy old grandmother : a simple and enthusiastic youth, devoted to virtue and liberty, with the devotion of a Frenchman to an unrealizable ideal. He falls in love with Miette, a waif employed as a drudge on a neighbouring farm, and the loves of Silvére and Miette form a pretty idyll, too romantic for Zola's pen. Silvére joins the insurgents (or patriots) ; Miette follows him and is killed by a chance ball ; and Silvére, stunned and stupefied by the blow, is taken by the victorious troops beside her dead body, and his dream of the triumph of liberty and virtue ends in his having his brains blown out in cold blood by his captors. The shock and horror of his tragical end prove the death of his doting old grandmother.

"Son Excellence Eugène Rougon" contains the story of the eldest son of Pierre, who becomes a Minister of the Emperor after the *coup d'état* : a strong, brutal, cynical man of the world, fond of power, and despising pleasure : surrounded by sycophants and office-seekers. With no faith and no principle, always ready to betray the master who has made him if he can thereby serve his own ends, he might be a Turkish or a Persian Vizier but for his fortitude and energy. He typifies the adventurers who made their own fortunes in the elevation of Napoleon the Little : while his admired fair one, Clorinde, who combines a sublime disregard for virtue and honour with a fanatical devotion to religion and to the person of the Holy Father, is a personification of the policy favoured by the Empress Eugenie and her Court. The scene of the story is laid sometimes in the Imperial Palaces amidst a tinsel imitation of the splendours and scandals of the old Royal Court of Versailles. Zola is, as we should judge from his writings, a socialist, or at all events, an advanced republican : and he does his best to cast discredit on the Imperial régime : but contemptible as Louis Napoleon and his courtiers may have been, we arise from the perusal of their follies with the conviction, that it is the corruption of the whole nation which we see reflected in the Court.

"La Curée" (the ceremony of cutting up the carcase of a slaughtered deer) is the title given to the story of Pierre Rougon's second son Aristide, a man as base and false as his elder brother, but infinitely more contemptible : physically weak and morally cowardly, and greedy not of power, but of gain. He was already married, and had made but a failure of his life when his brother's success gives him a fresh start ; and

the death of his first wife enables him, by trickery and false representations, to gain the hand of the fair Renée, the daughter of a wealthy retired tradesman. He becomes 'a speculator in land and buildings during the Haussman renovation of Paris, and a gambler on the Bourse, taking the name of Saccard to conceal his relationship to his brother Eugène, to whose secret patronage his success is due. He lives in splendid misery, his sordid soul fevered with the hazards of speculation, his proud, reckless and beautiful wife abandoned to her own devices and the society of the scamp Maxime, her husband's son by his first marriage; with whom she plunges into an abyss of vice, and finally dies of consumption, leaving her enormous debts to be paid by her father.

Antoine Macquart, Pierre Rougon's half-brother, has married a hard working woman who supports him in idleness while he spends her earnings at the wine shop. They have two daughters, Lisa and Gervaise: the former goes to service in Paris, pleases her mistress, and marries a *charcutier*, named Quenu, with a thriving business. *La belle charcutière*, as Lisa Quenu was called in their street, is the central figure of "Le Ventre de Paris," a description of the life of the Halles or great markets of Paris, with which is interwoven the history of one of the abortive conspiracies against the Empire hatched in cellars and garrets, and ending in the deportation of the would-be revolutionists to the swamps of Cayenne. A connexion of Lisa's husband and a lodger in his house is the leader of the plot: and Lisa becoming aware of his intentions by perquisitions in his room, her bourgeois horror of riot and revolution is aroused, and she denounces him to the Police, and his end is Cayenne.

Quenu and Lisa his wife both dying leave an only daughter Pauline, a noble girl with the physical and moral uprightness of her mother, whose story fills the volume of the series sarcastically entitled "Le Joie de Vivre." Left an orphan when a child, she is adopted by relatives of his father to whose necessities she sacrifices her little fortune. She is engaged to her cousin, a well meaning but vacillating youth, who forsakes her for the first pretty face he sees: after a frightful struggle with her own feelings, for she really loved him, she releases him from his engagement in favour of her rival, and earns the reward of seeing them both thoroughly miserable after they are married. Labouring continually for the happiness of others, the only result of her unselfish endeavours is to leave every body unhappy including herself.

The life of Lisa's sister, Gervaise Macquart, is the miserable story contained in "l'Assommoir," the name of the low drinking-shop where the ruin of herself and her family is consummated.

The story has been made familiar to the English public by the dramatised version of it called "Drink," introduced upon the London stage: and nothing more pitifully true to life has ever been written than the gradual ruin of poor Gervaise from the curse of drink which first overtakes her husband, and then involves her in his misery. The "facilis descensus Averni" of the drunkard was never more powerfully and graphically portrayed by the pencil of George Cruikshank, and it was *l'Assommoir* that firmly established Zola's reputation as a great novelist. Gervaise dies in misery in a common lodging house, and her husband Coupeau in a mad house, leaving one daughter, Anne Coupeau commonly called Nana, whose story furnishes material for the volume called by her name. She quits her miserable home for the streets during the lifetime of her parents, and appears in the opening chapter of "Nana" on the Parsian stage supporting the chief character in a play called "La Blonde Venus," a reminiscence evidently of "La Belle Hélène" in which Schneider took the French capital by storm. Though Nana can neither act nor sing, her *chic* demeanour and impudence and undraped charms make the success of the piece, and place her in the top ranks of her miserable calling, through all the sordid vicissitudes of which unsavoury career the story follows her, till she dies miserably of confluent small-pox, caught from her own neglected child, the scrofulous offspring of an unknown father.

Into this volume Zola has had the boldness to introduce the "Prince d'Ecosse" as one of the characters: the Prince, "grand mangeur et beau buveur," is represented as enjoying the gay life of the Parsian capital as the guest of the Emperor and Empress: and the last sounds in the ears of the dying "Nana" are the shouts of "A Berlin à Berlin," raised by the populace in the streets on the occasion of the outbreak of the Franco-Prussian war. "Germinal" (Seed-time) and "L'Œuvre" (Art) contain the stories of Nana's half-brothers, Etienne and Claude Lantier, the sons of Gervaise Macquart by the latter Lantier, with whom she first came to Paris before she met and married the *ouvrier* Coupeau. Etienne is apprenticed to a smith and becomes eventually a miner: and "Germinal" is a description of the life of a coal-mine, of the brutish misery of the miners and their families, of the unfeeling hardness of the masters, of the tyranny of middlemen and truck-dealers, the picture of the state of things familiar to Englishmen of the last generation so graphically portrayed by Disraeli in his novel of "Sybil": a state of things now happily passed away in England. The book is an epitome of the never-ending dispute between labour and capital written from the point of view of the labourer, and directed against the tyranny of the hateful

*bourgeoisie*: for since there is no aristocracy left in France, the bourgeois middle class has taken its place as the object of the hatred and envy of the lower classes. One of the characters of the book is a Russian nihilist or socialist, a well-educated engineer, who has engaged himself in the mine for the purpose of spreading his nefarious propaganda: to make a *tabula rasa* of the existing world is to him the only remedy for its evils, and the only means of inaugurating the era of universal innocence and happiness which is the god of his desires: and he works with the energy of a giant and the cunning of a fox to accomplish all the mischief that he can do in the world, totally regardless whether its results fall upon the heads of the tyrants or the victims.

Etienne Lantier serves merely as a peg on which to hang the framework of the story, which leaves him prematurely aged and broken down by a long confinement underground in the ruined mine, the result of an accident caused by the remorseless and senseless mischief of his nihilist friend.

Claude Lantier, the younger brother, is an artist with a burning love of art, and an intense devotion to his chosen vocation. "L'Œuvre" shews us the inside of Parisian art studios, and the Bohemian and poverty-stricken life led by the students. Claude is one of the chief malcontents who revolt against the Philistinism and conventionality of the *bourgeois*, and who will paint for art's sake and not to please the public. His comrades secede or succumb one by one, but he continues the struggle to the last, aided by a devoted wife, and sinks gradually lower and lower into poverty, misery, and obscurity; while men with not half his talents succeed by pandering to the taste of the Academicians and the Salons. His poor wife implores him to abandon the art that has ruined them, and the miserable story ends by his hanging himself in his studio before the unfinished picture which had been at once the hope and the despair of his life.

There remain the children and grand-children of the girl Ursule Macquart, married to a *negociant* of Marseilles, named Mouret. Her youngest son Silvère was shot as a revolutionist in the *coup d'état*, and her daughter Hélène's adventures form the theme of one of the series entitled "Un Page d'Amour" a simple story, the interest of which turns chiefly on the illness and death from consumption of Hélène's daughter Jeanne. Ursule's elder son, François Mouret, succeeds his father in business at Marseilles and marries Marthe Rougon, his half-cousin, daughter of old Pierre and Felicie. They have three children, Octave, Serge, and a half-witted girl called Desirée, who are still in the school-room when François retires from business and settles near his father-in-law at Plassans; where they live peacefully and happily

until the angel of discord appears in the shape of the Abbé Faujas, who is sent from Paris by Eugène Rougon to effect "the Conquest of Plassans," as the volume is called, which narrates the history of the Mouret family.

The Abbé is a secret emissary of the Imperial Cabinet, and his mission is to win over the Legitimists, who are strong in Plassans, to the Emperor's cause. He lodges in the Mouret's house where he obtains great influence over Marthe, and this causes dissension in the family and a rupture in the hitherto happy family. François Mouret goes out of his mind and murders the Abbé, and the book ends with a terrible tragedy where Zola, as usually happens when he attempts the sensational, has a narrow escape of the ridiculous.

"La Faute de L' Abbé Mouret" is the history of Serge Mouret, now Curé of a country parish, with his half-witted sister Desirée keeping house for him. Desirée, little removed from an animal herself, finds all her pleasure in the society of animals, and is the intimate friend as well as the mistress of all the four-footed and feathered inhabitants of her farmyard. The story is the story of the conflict of Serge's human nature with his priest-nature; the former, in spite of his fervent faith, sometimes getting the better of the latter, especially when aided by the charms of the beautiful Albine. In this love-tale, however, Zola becomes romantic, and consequently unnatural even to absurdity. There is much dramatic power in the enigmatical dream of the bewildered Abbé, of the tremendous conflict between the Church and the powers of nature. He stands at the altar within the sacred edifice, while the walls are rocking with the fury of the tempest, and the lightning is flashing among the falling pinnacles; rain, hail, and wind are all aiding in the work of destruction: and trees are growing up in the aisles and forcing their strong branches through the walls and the roofs: the clinging ivy is tearing down the buttresses and pillars, and the burdocks are forcing up the flag-stones: the beasts are all joining in the sacrilegious work, monkeys stripping off the tiles, and swine rooting up the foundations: and the Church crumbles visibly away under the assaults of nature, while the wasted breath of the priest ascends in fruitless supplications to heaven: until, as the bare altar, left standing alone, is riven by the earthquake, he exclaims in despair "the Philosophers were right: there is no God!"

Octave Mouret, the elder brother of the Abbé, follows his father's trade of a linendraper, at first in Marseilles and afterwards in Paris: his adventures in the latter city being the theme of two volumes of the series. The first of them "Pot-bouillé" is the history of a house in Paris and its many



inmates, in which Octave is one of the lodgers, being employed as an assistant in the draper's shop which occupies the first floor. His story is interwoven with that of all the inhabitants of the different stories of the house, and a chorus is supplied to the drama of their life by the conversation of the servant-maids who congregate daily at the windows which surround the back-yard to discuss the sayings and doings of their masters and mistresses. If these sayings and doings be faithfully represented, as they profess to be, then the pot, indeed, must be very near boiling over, and the social life of the great middle class of the great French nation must be rotten to the core. The men, the most trivial details of whose daily life M. Zola photographs, are without courage or honour: the women are without truth or virtue. The love of self and the greed of gain are the two most powerful motives of their lives. The story ends in Octave Mouret, after being the lover of one of his shop mistresses, marrying another, a widow, for her money, and becoming a master draper himself.

The second book of which he is the subject is called "*Au Bonheur des Dames*," the name of the monstrous drapery establishment which he has developed with the aid of the money of his now deceased wife: the theme of the book is the development of "*le grand commerce*" by the aid of capital; the huge modern shops which swallow up all the profits of the small ones and make their existence impossible. Zola is like the painter Frith, never so happy or so successful as with a crowded canvas; and he revels in the description of Octave Maurel's ever swelling emporium and its contents. One of his shop girls, Denise, is the heroine of the book: a simple, good and sweet girl, of whom the rake Octave becomes gradually enamoured, and whom he eventually marries. Octave, though a rake, was not a bad fellow at heart, and we hope that he made Denise as happy as she deserved to be. "*Au Bonheur des Dames*" is one of the best of Zola's books and one of the least objectionable on the score of indecency. Whether we shall meet Octave and his wife Denise again there is no saying, for the series may be continued to the lives of their children, if they have any.

In reviewing these works we have grouped them by families, but they were written and issued by the author in a hap-hazard way, without any regard to the sequence of time or age. Thus the story of Serge Mouret was published before "*L'Assommoir*" which contained the story of Gervaise Macquard: to that naturally succeeded the story of her daughter "*Nana*:" then came the two volumes of which Octave Mouret is the hero: then "*La Joie de Vivre*," the story of Pauline Quenu, Lisa Macquard's daughter: then the volumes containing the stories of

Gervaise's two sons: and so on. And each of the books of the series is so constructed, that it may be read by itself without reference to the rest of the series. In the same way, Thackeray and Trollope were wont to keep the same set of people running through all their novels, so that the reader could treat them as connected or disconnected works at pleasure.

Both the objects which Zola proposed to himself in thus issuing this series of novels appear to have been lost sight of in the separate interest of each story as the work proceeded. The thread of connection has grown slenderer and slenderer as the series has been protracted, nor does there appear any attempt to definitely fix the moral and physical influence of inherited qualities in the various characters. The political moral which was sought to be enforced so sedulously in the earlier volumes of the series has been conspicuously absent from the latter ones: the Empire is so thoroughly dead and buried now, that the author probably thinks there is no use in casting any more dirt upon it. But in the later books of the series a new political idea has cropped up: the idea of the organization of labour in opposition to capital, the revolt of the *ouvrier* class against the *bourgeoisie*: the presage of a fresh French Revolution, directed this time not against the aristocracy (for there is none,) but against the upper class which has succeeded to its place. If Zola's novels are what they profess to be, and what many admit them to be, photographs of Modern French Society, then a French Revolution is as much needed to-day as it was a hundred years ago. The *bourgeois* who have succeeded to the old *noblesse* have all the vices of their predecessors without any of their spirit. There are some who maintain that the failure of honour and public spirit in France is due to the absence of an aristocracy:

"Let arts and commerce, laws and learning die,  
But leave us still our old nobility!"

Perhaps those qualities can best be fostered by the example of a worthy aristocracy; but the French nobility had already lost those attributes of nobility before their inglorious fall. "If the salt hath lose its savour, wherewith shall it be salted?" But the state of society portrayed in the novels of Zola inclines us to believe, that the moral corruptions which caused the ruin of the aristocracy, was not confined to them, but had poisoned the life of the nation already when they were cut off; and the disease was reproduced in their destroyers and successors. The stagnation of the national growth, the failure of the French arms, are effects of this moral disease which is sapping the vigour of the nation. The popularity of M. Zola's books is only a symptom of the fatal and pervading social plague which he attempts to diagnose.

## ART. IX.—INDIAN CODIFICATION.

*The Anglo-Indian Codes.* Edited by Whitley Stokes, D. C. L., late Law Member of the Council of the Governor-General of India. Vol. II. Adjective Law. Oxford: at the Clarendon Press, 1888.

THE appearance of the second volume of Mr. Whitley Stokes' "*Anglo-Indian Codes*" seems to present a suitable opportunity for saying a few words regarding the past, present, and future of Indian codification.

The first Law Commission was appointed in 1834 under section 53 of the Charter Act of 1833 (3 and 4 Will. IV. c. 85). It consisted of the Legislative Councillor (the first was Lord Macaulay), an English Barrister, and three of the Company's Civil Servants, one from each Presidency. Macaulay's draft of the Penal Code was actually published in 1836, but it did not become law till 1860. This Commission published voluminous reports, but effected nothing in the way of codification or consolidation of the laws or customs of the country.

The next link in the chain of the past of Indian codification is found in Sec. 28 of the Charter Act of 1853 (16 and 17 Vic. c. 95), which authorized the appointment of Commissioners in England to examine and report on the reforms proposed by the Indian Law Commissioners appointed under the Act of 1833. The preamble of this section is worth reproducing *in extenso* :—

"And whereas by the said Act of the third and fourth years of King William the Fourth, it was provided, that Commissioners to be appointed thereunder, and to be styled the Indian Law Commissioners, should inquire into the jurisdiction, powers, and rules of the existing Courts of Justice and Police establishments in the said territories, and all existing forms of judicial procedure, and into the nature and operations of all laws, whether civil or criminal, written or customary, prevailing and in force in any part of the said territories, and should from time to time make reports, in which they should fully set forth the result of their inquiries, and should from time to time suggest such alterations as might, in their opinion, be beneficially made in the said Courts of Justice and Police establishments, forms of judicial procedure and laws, due regard being had to the distinctions of castes, difference of religion, and the manners and opinions prevailing among different races and in different parts of the said territories: And whereas the Indian Law Commissioners from time to time appointed under the said Act have, in a series of reports, recommended extensive alterations in the judicial establishments, judicial procedure, and laws established and set forth in India, and have set forth in detail

the provisions which they have proposed to be established by law for giving effect to certain of their recommendations; and such reports have been transmitted from time to time to the said Court of Directors; but on the greater part of such reports and recommendations no final decision has been had:

It shall be lawful for Her Majesty to appoint, &c."

A Commission was accordingly appointed in 1853, consisting of Sir John Romilly, Sir John Jervis, Sir Edward Ryan, Charles Hay Cameron, John McPherson Macleod, John Abraham Francis Hawkins, Thomas Flower Ellis, and Robert Lowe. These Commissioners submitted reports in 1854 and 1856, and they recommended, *inter alia*, the amalgamation of the Queen's and Company's Courts.

The attention of the Commissioners was prominently drawn to the necessity for amalgamating the Supreme and Sudder Courts in each Presidency. They were informed that it was obviously most desirable that a simple system of pleading and practice, uniform as far as possible throughout the whole jurisdiction, should be adopted, and one which was also capable of being applied to the administration of justice in the interior Courts of India. The embarrassment would thus be avoided which a diversity of procedure threw in the way of an appellate jurisdiction; and the proceedings in the new Court would be a pattern and guide to the inferior tribunals in the Mofussil. It was intended that the procedure in the highest Court should be exactly the same in all respects as that of the Courts of first instance. That this object has not been entirely effected, is manifest from the book which Mr. Belchambers has published regarding the rules of practice and procedure now in force on the Original side of the High Court.

The work done by the Commissioner of 1853 may be summarized as follows:—

1. They submitted a plan for the amalgamation of the Supreme and Sudder Courts:
2. They framed simple and uniform Codes of Civil and Criminal Procedure:
3. They submitted elaborate proposals for supplying the wants of India as regards substantive Civil law.

The immediate, or rather the proximate, results of their labours were, that the Courts were remodelled in 1862 in accordance with their recommendations, and that the Codes of Civil and Criminal Procedure were, with some alterations, passed into law in 1859 and 1861 respectively.

The next Commission was appointed in 1861, and consisted of Lord Romilly, Sir William Erle, Lord Chief Justice of the Court of Common Pleas, Sir Edward Ryan, Mr. Lowe, Mr.

Justice Willes, and Mr. Macleod. Subsequently Lord Chief Justice Erle and Mr. Justice Willes retired from the Commission, and Mr. James (afterwards Lord Justice James) and Mr. John Henderson were appointed Commissioners in their stead. In a series of reports submitted from 1863 to 1870, this Commission laid the foundation of a systematic jurisprudence for India. Their work may be summed up as follows :—

1. They framed a law of succession and inheritance applicable to various classes of persons not professing the Hindu or the Mahammedan religion :
2. They submitted rules of law on contracts in general, on the sale of moveable property, indemnity and guarantee, bailments, agency and partnership :
3. They submitted rules of law on the subject of promissory notes, bills of exchange and cheques :
4. They submitted rules of law on the subject of evidence :
5. They submitted a body of law designed to bring the rules which regulate the transmission of property between living persons into harmony with the rules affecting its devolution upon death :
6. They revised the Code of Criminal Procedure.

The Commissioners appear to have been disappointed at the slowness of the Government of India in passing their drafts into law, and they consequently tendered their resignation (1870). The following Acts constitute the ultimate result of their labours ; the Indian Succession Act of 1865, the Contract Act, the Evidence Act, the Code of Criminal Procedure of 1872, and the Negotiable Instruments Act of 1881.

Sec. 28 of the Charter Act of 1853 (16 and 17 Vic., c. 95) remained unrepealed by the Indian Councils' Act of 1861, or by any other enactment ; and in 1875, the Secretary of State for India, Lord Salisbury, pointed out to the Government of India the expediency of continuing and completing the work of codification and suggested that the preliminary work of preparing, for the consideration of the Legislative Council, the remaining branches of the Indian Code, should be entrusted to a small body of eminent draftsmen working in England. The Government of India were averse to this proposal on the ground that a body sitting in England would have a tendency to draw the initiative out of India into England, and that though their measures might possess legal symmetry, they would be framed without regard to the order in which they were wanted, or to the peculiar conditions and circumstances of the country. It is no doubt

essential that draftsmen of laws for India should have an intimate acquaintance with the existing Indian law ; otherwise, their work will be full of inconsistencies, incongruities, and mistakes. The Government of India also pointed out that codification cannot be accomplished without change ; that the people of India do not readily accept change ; and that any large new body of law must be slowly and cautiously introduced. The judiciary also have to be considered : their powers of digestion and assimilation are limited. The task of learning the large body of new law added to the statute book in 1872 was felt very severely by Judges all over the country, and was even made the subject of complaint. After the severe labours of 1872, the Legislature seems to have been glad to rest on its oars and get a breathing-space. Taking codification to be the expression in authoritative writings of law previously to be gathered from traditions and records of a much more flexible and less authoritative character, there was between 1872 and 1877 but little codification, with the exception, perhaps, of the High Courts Criminal Procedure Act, (X of 1875) and the Presidency Magistrates Act (IV of 1877). Nevertheless, a good deal of attention was paid, during this period, to the consolidation of existing, and the repeal of obsolete laws (Acts XIV, XV, XVI of 1876).

The Secretary of State, however, insisted on the importance of continuing, in a steady and systematic manner, the work of codification, and pointed out that the necessity had become especially urgent, as the amalgamation of the Presidency and Mofussil Courts had taken place before the formation of the Civil Code which they were intended to administer, and the general direction to follow the dictates of equity, which was alone given to them for their guidance, was apt to be interpreted by many of the Judges of appeal in the light of English authorities with which they were familiar, but which were necessarily unknown to the litigant parties, and even to the Judges of first instance. In this way, many rules utterly ill-suited to oriental habits and institutions, and which would never recommend themselves for adoption in the course of systematic law-making, were indirectly finding their way into India by means of that informal legislation which is gradually effected by judicial decisions ; and it was manifest that the only way of checking this process of borrowing English rules from recognized English authorities, was to substitute for those rules a system of codified law, adjusted to the best native customs and to the ascertained interests of the country. The Secretary of State, moreover, remarked that only two chapters of the Indian Civil Code had hitherto been enacted, namely, those treating of succession and of contract.

The Government of India replied that they were keenly alive to the importance of reducing to a clear, compact, and scientific form the still uncodified branches of the substantive Civil law. It would save labour and thus facilitate the despatch of business and cheapen the cost of litigation; it would tend to keep untrained Judges from error; it would settle disputed questions on which the Indian superior Courts were unable to agree; it would preclude the introduction of technicalities and doctrines unsuited to India; it would possibly enable the Government to make some urgently needed social reforms without the risk of exciting popular opposition; and it would assuredly diffuse among the people of India a more accurate knowledge of their rights and duties than they would ever attain, if their law were left in its present state, that is to say, partially codified, but the bulk ascertainable only from English text-books written solely with reference to the system of English law, and from a crowd of decisions, often obscure and sometimes contradictory, to be found in the English and Indian Law Reports. In fact, the Government of India did not for a moment contest the expediency of completing the codification of the substantive law, but merely insisted on the work being done in India and not in England.

It will be useful and interesting to note as succinctly as possible what were at this time (1877) the exact intentions of the Government of India as regards codification. Foremost in importance was the completion of the law of contract. Act IX of 1872 had dealt only with contract in general, sale of goods, indemnity and guarantee, bailment, agency and partnership; the following subjects still remained uncoded:—

- (a). Sale of immoveable property, mortgages, exchanges, leases;
- (b). Insurance (marine, fire and life);
- (c). Carriers (marine and inland), except so far as they fall within the sections on bailment in Act IX of 1872;
- (d). Negotiable instruments; and
- (e). Bottomry, respondentia, and the other liens on moveables, except those of unpaid vendors, bailees, pawnees and agents.

Taking other uncoded subjects in the order of their importance, it was proposed first to pass into law the Bills relating to transfer of property, negotiable instruments, and insurance. The Negotiable Instruments Act was to be an embodiment of the actual law merchant of the country, and not to introduce any English innovations, which would ride roughshod over the native customs relating to *hundis*.\*

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\* A *hundi* is a Bill of Exchange.

The laws of persons, personal rights, and personal relations were considered to stand next in importance. The subjects of minors and lunatics had been dealt with: but, generally speaking, the law of personal relations had not been touched; that is, the law dealing with the relations of husband and wife, parent and child, guardian and ward, master and apprentice, and master and servant. The laws as to the solemnization of marriage and as to divorce had been codified *quoad* Christians and persons (such as members of the Brahmo Samáj) not professing the Christian, Jewish, Hindu, Muhammadan, Parsi, Buddhist, Sikh or Jain religion. The law of guardian and ward was codified by Act XII of 1874 for Europeans, their children and grand-children; but this Act was in force only in the Panjáb, Oudh, the Central Provinces, Ajmir, Coorg, Assam and British Burma. The law of master and apprentice had been dealt with by Act XIX of 1850 and Act I. of 1857. It was proposed to extend Act XIII of 1874 to the whole of British India, and possibly to the classes to which the Succession Act applies; and also to take up the subjects of master and servant and of parent and child (which would include rules as to the custody of children). On the former subject Mr. Whitley Stokes, then Legal Member, had already prepared a Bill.

Personal relations having been disposed of, laws were to be passed regarding alluvion and diluvion, easements and boundaries. The subject of boundaries in their civil aspect was untouched, save by some local laws dealing with boundary disputes, and the erection and repair of boundary marks; so was the law of servitudes (or easements), save as regards the acquisition of a prescriptive title.\* As to alluvion the only Regulation (XI of 1825) on the subject was not in force throughout India; and was incomplete, obscure, and encrusted with conflicting decisions of the late Sudder Courts, the High Courts, and the Judicial Committee of the Privy Council. The law of property, already touched by the Succession Act and Contract Act would be, to a large extent, covered by dealing with the uncoded portions (enumerated above) of the Law of Contract. Certain matters not so covered, such as the property of the State, and the ownership of wild animals, were not considered to be pressing. The subjects of shipping, corporate property, patents, copyright and trade-marks had already been treated; while settlements and powers were included in the Transfer of Property Bill. Trusts were to be abandoned for the present.

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\* Act IX of 1871, ss. 27, 28; now Act XV, 1877.



With the passing of the above measures the rights of the people would be rendered fairly certain, and it was not till then, that the subject of torts or actionable wrongs was to be attacked and disposed of. The Civil Code would then be almost complete; there would only remain the subjects of carriers (marine and inland), trusts, gifts *inter vivos*, bottomry, and the other liens on moveables not treated by the Contract Act, and accession to moveables, so far as the subject was not disposed of by sections 153-157 of the same Act.

Nothing would then remain but scientific arrangement, and the preparation of a chapter containing rules of interpretation. Such a chapter was considered to be of the utmost importance as abolishing the absurd, illogical, and pernicious distinctions between the construction of penal statutes, remedial statutes, and statutes imposing taxation—distinctions which had been ruthlessly imported into India by judges more familiar with the English than the Indian law, and fonder of airing their knowledge of the English Law Reports than impressed with the desirability or necessity of giving effect to the intentions of the Indian Legislature. The Government of India were deliberately and emphatically of opinion that the work of codification should be carried out in India, and not in England; that an Indian Law Commission could do the work required, but would be too expensive; and that it would suffice to attach a skilled Parliamentary draftsman to the Legislative Department.

At this point we may suspend our sketch for a moment and consider, why it is essential that laws for India *must* be framed in India and by persons familiar with the Indian law. India is not a newly discovered island, or a fresh continent: it is not a *corpus vile* for *experimentum juridicum*: it is not a blank sheet, a *tabula rasa*, on which either theorists or English lawyers may inscribe fancy codes or duplicates of English text-books. Whatever may have been the case in England or on the continent, it has never been seriously proposed in this country to plunge into such anti-historical codification as was proposed by Bentham. Insurance and maritime lien are perhaps the only branches of the law on which India has not developed rules or adapted them to local circumstances. One of the main principles of Indian codification is, to make as little change as possible in the body of existing law, whether that law be declared by statute, or by judicial decisions, or by well-ascertained usage. It follows that the Indian draftsman must not only know what to say, but also what to abstain from saying; and this knowledge can only be obtained by long study and residence in India. To draft even the simplest Act, draftsman must have at his finger's ends the whole body of existing law on the same subject. The Indian draftsman

should know the statute law, the case-law, native law and local usage as well as the English statutes and reports are known to Parliamentary draftsman. Indian law is a very vast field, and many a Judge leaves the country without having mastered one-tenth of it, and without even having seen many portions of it. The sources of Indian law are three-fold :—

### *I.—Statutory Law.*

Under this head we have the statutes relating to India, and especially those dealing with constitutional law ; the Acts of the Governor-General in Council : the Acts of four Local Councils ; the unrepealed Bengal, Madras and Bombay Regulations ; and lastly, the Regulations made under the Statute 33 Victoria, chapter 3.\*

### *II.—Case-law.*

The Law Reports fill more than 300 volumes, so that the number of decisions must almost, if not quite, equal the 30,000 *responsa prudentum* which Tribonian and his colleagues compiled for the Emperor Justinian.

### *III.—Native Law and Local Usages.*

Under this head there are text-books and translations, and that too little-known quantity, the common law of the country, as deducible from native life, manners, and customs. Intelligent natives and civilians of wide Mofussil experience could name not a few rights, customs, and easements that have been unrecognized or not sufficiently recognized by the Courts. The most recent declaration of customary law that we can call to mind is that of the Allahabad High Court regarding the easement of privacy. Bills before the Legislative Council are often shaped and modified in accordance with the mature experience and intimate local knowledge to be found in the reports of local Governments and their District officers ; and in this way a good deal of well-ascertained custom is saved and preserved.

Having regard to the above facts, the unwisdom of entrusting to a few English lawyers, however eminent, sitting in London, the work of framing laws for India, needs no further demonstration.

To return from our digression : a competent Parliamentary draftsman was not available, and the Indian Government were compelled to recommend the appointment of a Commission to work in India under the instructions of the Governor-General in Council. Of the contemplated legislation, two Bills (those dealing with the Transfer of Property and Negotiable Instruments)

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\* Possibly these Regulations might not be found in the libraries of High Court Judges or Secretaries to Government ; they are certainly not to be found in the Mofussil.

had been revised by Select Committees of the Legislative Council; while four other Bills (Easements, Alluvion, Master and Servant, and Trusts) had been drawn by the Legal Member, Mr. Whitley Stokes. It was, therefore, considered that the Commission might finish their work within five years. The Secretary of State approved of the proposal of the Government of India; and in February 1879, a Commission was appointed, consisting of Mr. Justice Turner of the Allahabad High Court, Mr. Justice West of the Bombay High Court, and Mr. Stokes as President. Their report was submitted before the end of the same year.

As might have been expected from the constitution of the Commission, they were in favour of continued and sustained codification. About that time legislation of any sort was somewhat in disfavour, while scientific legislation was regarded with a sort of abhorrence. The Commission, therefore, thought it worth their while to examine at length and refute the objections that had been brought forward. The arguments used are much the same as those which have established themselves on the continent, though experts differ very considerably as to how far codification should go and at what stage of a nation's progress particular branches of the law should be codified. By some it is said that the true purpose of a code is to further the moral and material progress of a people by fostering a general harmony of thought and action. We doubt whether this is the true function of a code, though it may possibly have such a result. But, however that may be, society cannot, as some are rash enough to assert, provide for its jural needs without any intervention of the legislature. Active legislation is essential, not only to the progress of administration, but to the political health of a growing society; it meets needs which cannot otherwise be satisfied, and the more systematic it is, provided the system itself is a good one, the more beneficial it will be in its operation and influence.

What made codification an urgent necessity in India was the ruthless application of an alien law, the only law with which the Judges were acquainted. English law found its way into every corner of the country; until mofussil Munsifs, \* speaking no language but their own vernacular, were told at last by a Chief Justice † through their superiors, that they were bound to dispose of the litigation of Marathas according to the principles of English law which the Courts at Westminster would bring to bear on the same cases. This was the earlier stage of the mischief. A later stage was that some native

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\* A Munsif is a Civil Court of first instance.

† 2 Bom. H. C. R. 38, per Couch, C. J.

Judges, cut off by an elaborate education from all sympathy with the mass of the people, not knowing their own legal literature, and thoroughly conscious of the tests by which their abilities would be appraised, resorted for guidance to English text-books and the judgments of superior Courts steeped in English law. The application of English law was, from some points, not to be regretted any more than the general adoption of Roman law in Europe in the Middle Ages; but the Roman law was codified, and therefore more easily ascertainable. The mischief in India was, that the lower Courts could not properly ascertain, and did not thoroughly understand the English law, scattered as it is in numerous reports and text-books. In the Appellate Court an improved reading was perhaps substituted for a defective one, and so at every step, the chain of precedent grew stronger. A system having once been firmly established, no individual Judge, however enlightened and sensible, could set bounds to its predominance. Even the terms of the English Real Property law, drawn straight from the feudal system, have become, with all their misleading connotations, a part of the common vocabulary of the Courts. The cry against over-legislation is often but the outcome of ignorance and mere prejudice, and that cry was at no time louder than when Mr. Stokes was Legal Member. Possibly the objections urged against one or two Bills were reasonable, but the indiscriminating condemnation of all the measures then on the legislative anvil was due to prejudice. An example is the Easements Act, which is clear, concise, and intelligible to any Munsif; before it was passed, there was perhaps no branch of the law on which more uncertainty and diversity of decision prevailed. Munsifs used to lose themselves in the labyrinths of treatises by Gale and Goddard, instead of having a few clear and comprehensive sections to refer to. The Master and Servants Act was perhaps open to some of the objections urged against it, and its provisions would certainly have been abused by low-class Europeans.

Those who condemn codification, or as they would term it, over-legislation, are under the erroneous impression that, when the legislative mill is not working, legislation is not really going on. But it cannot be too clearly borne in mind that inaction on the part of the legislature *retards but does not arrest* legislation. Points not provided for by the statute-law must be decided, and judicial legislation by case-law is always going on, the amount of it being in an inverse ratio to the amount of statutory legislation. Now legislation by the legislature must, *ex necessitate rei*, be superior to legislation by a Judge. The Judge is confined to the four corners of a record; the legislature has at its disposal the whole experience of the

administration. The Judge is dependent for his material on an interested suitor, who wishes to obtain a particular decision : the legislature publishes its proposals, and obtains criticisms from competent advisers and experts in every part of the empire.

The propositions of a code should be broad, simple, and readily intelligible\* by a man of ordinary understanding. With regard to this, the opponents of scientific legislation for India often remind us of the extremely different social conditions and stages of progress attained in different parts of the country. A good answer to this objection is furnished by the following extract from the Report of the Commission:—

"That very great differences exist, is undoubted, but it is no way conclusive of the question of systematic<sup>c</sup> as opposed to casual law-making. Looking at the matter by the light of history, we have to admit that the contrasts in civilization amongst the several provinces of the Roman Empire were not less marked than those to be observed in British India. Yet this was not allowed to prevent the growth and application of a uniform system of legal principles. The *Prætorian law*, in fact, gained largely by its necessary adaptation to the needs of citizens and foreigners alike, and its consequent rejection of all that was specially local and peculiar. Principles of universal application, according to the standard then recognized, had to be sought out, because it was felt that what was a good reason for a rule to a Roman was sometimes no reason at all to a foreigner, or even to a provincial. It was in this way that the Civil law gained that character of generality which has given it such an ascendancy on the Continent of Europe. In India analogous conditions must lead to not wholly unlike results. The law to be introduced, or framed out of existing local materials, has always to be tried by the test of its suitability to the varying circumstances of the different provinces. What is insular or cramped either in thought or in expression is thus almost certainly eliminated. The central ideas of the English law are, in such works as the Penal Code and Contract Act, cleared from the remnants of a lower stage of organization with which, in the English books and the English Courts, they are still encumbered, and presented in a simplicity and generality of expression which has reacted very perceptibly on the ideas of lawyers in England. The more searching analysis forced by his situation on the Indian lawyer and legislator may thus in the end prove highly beneficial both to the science of law, and its practical application."

Finally, laws must be certain : this is an essential element in good government. Some have even gone so far as to say that "it matters little what the law is, so that it be settled." Now, what practical chance is there of either uniformity or certainty, if the Legislature does not step in from time to time to declare what the law is? The facts are these : There are one Supreme and four Local Legislatures. There are four High Courts, one Chief Court, and several Judicial Commissioners

\* "Les lois ne doivent point être subtiles : elles sont faites pour des gens de médiocre entendement."—Montesq. *Esp. des Loix*. xxix. 16.

with the powers of High Courts; and none of these tribunals are bound to accept as binding the rulings of any other! Only one tribunal, the Judicial Committee of the Privy Council, can compel in one direction the decisions of all Indian Courts of appeal: and that tribunal cannot be resorted to except in cases of high pecuniary value, and then only by exceptionally wealthy suitors. It is obviously desirable that the superior Courts should be provided with uniform bodies of rules dealing with the chief relations of social life, so as to obviate inconsistent and contradictory decisions, and to prevent the growth of irreconcilable systems in different parts of the country. Coming down to the Courts of first appeal, it is found that many of them display remarkable acumen and ability, but that, generally speaking, their legal training is defective. The bulk of the work, however, is done by the Courts of first instance. They are often situated in remote and solitary places, without the aid of skilled assistance, and without access to good law libraries. *Mofussil* pleaders are generally too poor to provide themselves with good text-books or law reports, and the judges can count on little assistance on any subject, which is outside the range of their own daily experience. Owing to the unskilfulness and want of knowledge with which these cases have been handled in the first instance, suitors are often compelled, at ruinous expense, to appeal from Court to Court. No improvement can be expected until the *Mofussil* bar, that is, the pleaders practising in the Courts of *Munsifs*, are better educated in law; and the best way to supply the deficiency is to extend the codified law. It will be seen, then, that the happiness of a people is intimately bound up with, and dependent on, the possession of good, certain, and readily intelligible laws. A well-framed code will not only reduce the necessary bulk of law libraries, but will focus the wisdom and acumen of many learned expositors upon identical points of construction, and detailed development. In such a concourse of intelligence the better interpretation, the sounder principle, must prevail; and thus the Lower Courts will be trained, not only to a right understanding of particular enactments, but to a rational and effective method of dealing with the whole range of problems set before them. Lower Canada is one of the many countries which have recognized the inestimable advantages of codification; and there, as in India, a heterogeneous population has rendered it necessary to build on broad and liberal general principles. The following is an extract from the introduction to its Civil Code:—

Prospectively, the code promises uniformity of jurisdiction, which contributes to diminish litigation, and add to the security and stability of our civil rights.

It offers great additional means of legal education, from which may be expected a higher standard of professional excellence.

It will ensure among the individual members of society a more intimate acquaintance with their civil rights and obligations, tending to increase and facilitate business relations, and to promote the natural welfare of the community. Moreover, as a barrier against the continual inroads of fragmentary legislation, it is an earnest of stability in the law itself.

The great divisions of a complete future code will comprise the following :—(1) Public and political law : (2) Absolute rights and duties : (3) Obligations : (4) Property : (5) Personal law : (6) Family law : and (7) Successions. In India the gaps are the widest under heads (2) and (4). The Commission of 1879 were of opinion that the Contract Act, with the Acts relating to negotiable instruments, the transfer of property and trusts, would settle the main principles of free bilateral transactions and fiduciary relations. It would be impossible to reduce to uniformity the law as to the estates and interests to which the State will give effect in immovables ; but the subject of alluvion was constantly before the Courts and must be dealt with, and it was also desirable to define the rights and obligations of proprietorship, by a clear and reasonable law of easements. On the frontier line of contract and family law came the Master and Servants Bill, which should carefully avoid any unnecessary aggression on the delicate domain of purely domestic relations. After the above Acts had been passed, it would be advisable to deal with the law of wrongs, or of absolute private duties and rights ; this law, standing between the Criminal Law and the laws of property and obligations, was interwoven with both, and was also connected with the law of persons and of the family, and even with the law of succession.

There has been much diversity of opinion regarding the necessity for a Code of Torts. An elaborate code was framed about the year 1884 by that erudite lawyer, Mr Frederick Pollock ; but the weight of opinion was against passing it into law. The Commission, of which Mr Stokes was President, maintained that the positive rules as to rights, which had already been enacted, required as a complement, a rational law of wrongs. Within firm and unmistakeable outlines, ample room was to be afforded for the play of individual energy, for the growth of beneficial influences springing from sources within the community itself, and for the plastic force of judges and administrators at once in thorough sympathy with the Legislature, and thoroughly versed in the habits, practices, and tendencies of the native community. It was hoped that, with the Penal Code and the Contract Law, a clearly drawn code of absolute Civil duties, well adapted to the character

of the people, might serve as the solid core of a greatly improved scheme of popular ethics. The argument that by knowing their absolute Civil rights people would, in many instances, be led into litigation for the sake of asserting them was, in the opinion of the Commission, hardly worth serious discussion. Its natural conclusion was, that all Civil laws were an evil; it might be all penal laws too, since, if no one knew that he could obtain redress, no one would complain of any injury. Laws were made and administered in the interest of the general well-being; no rights should be given by law, except those which it was important to maintain; and when the law conformed to this principle, the man might be regarded as a friend to society who, in vindication of his private right, enforced observance of a rule universally beneficial.

Our own opinion on the subject coincides with that which presumably the Government of India arrived at, when they decided not to proceed with Mr. Pollock's Bill. No doubt, from a lawyer's point of view, a code on the subject of tortious acts or wrongs would constitute a valuable addition to a body of written law; but it is very doubtful whether it would benefit Indian society. It would probably be more effectual in suggesting kinds of litigation now very rare, if not wholly unknown in India, than in removing difficulties actually felt in practice. On many subjects rights have not become sufficiently settled to afford a basis for a codified law of wrongs. According to Sir James Stephen, the object of codification was to provide a body of law for the Government of the country so expressed, that it might be readily understood and administered both by English and Native Government servants without extrinsic help from English law libraries. He was therefore in favour of a law of torts. That great jurist, the late Sir Henry Maine, was also opposed to the postponement of such a law. The two-fold dangers of comprehensive legislation have been ably pointed out by Sir James Stephen: on the one hand, unsuspected and unintended changes may be produced by introducing European ideas into Native society: on the other, we may stereotype those Native ideas and institutions, which must in the course of time be remodelled by the influence of European ideas and habits; either revolutionary changes may be introduced, or insurmountable obstacles may be placed in the way of those very changes, which are the natural and beneficial results of the establishment of the British power. These dangers would not be absent in the codification of a law of wrongs. But Sir Henry Maine was of opinion that their magnitude was much exaggerated. He thought the case against codification was founded on an erroneous assumption, namely, that India



was full of indigenous legal or customary rules, which sufficed for the solution of all legal questions; whereas, as a matter of fact, the country was, before the British Government began to legislate, singularly empty of law. He considered it very possible, and even certain, that there were no indigenous rules in India to guide the Courts of justice when questions of civil wrong were brought before them. If the legislature did not legislate, the Courts of justice would have to do so; for legislation was a process which perpetually went on through some organ or another wherever there was a civilized Government, and which could not be stopped. But legislation by Indian Judges had all the drawbacks of judicial legislation elsewhere, *and a great many more*. As in other countries, it was legislation by a legislature which, from the nature of the case, was debarred from steadily keeping in view the standard of general expediency. As in other countries, it was haphazard, inordinately dilatory, and inordinately expensive, the cost of it falling almost exclusively on the litigants. But in India judicial legislation was, besides, in the long run, legislation by foreigners, who were under the paralysing thralldom of precedents and analogies belonging to a foreign law, developed thousands of miles away, under a different climate, diverse conditions, and for a different and far superior civilization. For these reasons Sir Henry Maine was of opinion that the law of wrongs might with advantage be codified.

The science of jurisprudence is under lasting obligations to the writings of Sir Henry Maine and Sir James Stephen; and every student of the science cannot but regard those great names with gratitude and veneration. If the writer differs from them regarding the necessity for a law of torts in India, he humbly urges as an excuse for his presumption that, having been longer in India, and having resided in various parts of the interior, and not merely in Calcutta and Simla, he has had greater opportunities of becoming acquainted with the country and the people, and has thereby been enabled to collect more data for forming an opinion as to the probable effects of a code of wrongs on their daily life and relations. It seems to us that it is important to codify subjects about which frequent law suits arise, *e. g.*, the subject of Hindu family property: such codification prevents money from being wasted on uncertain litigation, and thereby tends to add to the well-being and wealth of the people. Such codification may lessen the profits of the legal profession; but in this, as in all other matters, the greatest good of the greatest number must be kept in view. On the other hand, it is not important to codify two classes of subjects,

(1.) Subjects about which people do not dispute:

- (2.) Subjects which are dealt with in the existing law, and on which such law works well.

Now there are certain branches of the law of wrongs regarding which the people have no disputes, and do not litigate. The bulk of litigation is concerned with contract, property, and the law of landlord and tenant. Again, there are certain other great branches of the law of wrongs, which are adequately dealt with in the Penal Code. Such are the offences (or wrongs) of assault, criminal force, wrongful restraint, wrongful confinement, malicious prosecution, mischief, insult, and defamation. It has been found that the best-drawn Code of Torts cannot improve on the Penal Code definitions of these wrongs, and a Code of Wrongs is to a great extent a duplicate of the Penal Code. In Germany and France the *action civile* as well as the *action publique* come before the Courts of first instance; and, are not the two in a manner already joined in Indian Criminal Courts? Section 545 of the Code of Criminal Procedure is as follows:—

“Whenever, under any law in force for the time being, a Criminal Court imposes a fine, or confirms in appeal, revision or otherwise, a sentence of fine, or a sentence of which fine forms a part, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied—

- (a) In defraying expenses properly incurred in the prosecution;
- (b) In compensation for the injury caused by the offence committed, where substantial compensation is, in the opinion of the Court, recoverable by civil suit.”

Clause (a) will give the wronged party his costs, and clause (b) his damages. At a time when the everlasting cry is for “more Munsifs,” is it not advisable to utilize the Criminal Courts for the decision of matters which they are competent to decide, at the same time giving their decisions more finality? The objections which stand in the way are sentimental, and are intimately connected with the fear of the *Faujdar* (the Governor-Magistrate, supported in the background by the bayonets of the British *Fauj*), and the stigma which attaches, or is supposed to attach, to a criminal conviction. But sentiment yields to time and reason:

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\* In Italy it is the law that there can be no Civil action when it has been declared by a final judgment, that there are no grounds for prosecuting, either because the act imputed does not constitute an offence, or because the accused has been acquitted as not having committed the act. Ital.—C. P. C., 4, 6. In France the acquittal pronounced in a Criminal Court is an obstacle to a civil action, if the Criminal Judge has clearly negatived the fact which is the common basis of either action, and the Civil claim is absolutely irreconcilable with the findings and decision of the Criminal Judge.—Rulings of Court of Cassation, 20th April 1863.

† *Fauj* is the Hindustani word for army: *Faujdar* is literally the leader of an army.

facts cannot be altered by varying names and appellations. A cuts a portion of B's hedge: he is no better and no worse a member of society, whether he be prosecuted and fined Rs. 5 for mischief, or sued and made to pay Rs. 5 as damages for the wrong inflicted. The criminal procedure is cheaper, and it may be said that the Government would lose the institution court fee on plaints; but on the other hand, any portion of a criminal fine not paid as compensation goes to Government. Moreover the court fee on complaints might be raised in non-cognizable\* cases. We have no space to pursue this important subject further; but we are decidedly of opinion that a Code of Torts would foster litigation. If a Code of Torts<sup>o</sup> is to be passed, it must be accompanied by some radical alterations in the law of criminal procedure: otherwise, we should find unsuccessful complainants filing plaints for wrongs, and convicted persons suing their prosecutors in the Civil Courts. So far as we are aware, there is nothing in the law, as it now stands, to prevent the occurrence of such extraordinary anomalies. They can hardly be said to occur at present; but a Code of Torts would immediately suggest and bring them into prominent operation. It would be extremely unwise and impolitic to pass any measure, which would suggest and foster litigation. It is said that already the Munsifs cannot get through their work, and the duration of contested cases shows a steady tendency to increase. We believe the causes of this state of things to be certain evils so deep-seated, that probably the creation of additional Courts would only give a temporary relief. This is a subject which demands a separate article, and the writer hopes he may find leisure to discuss it in a future issue of this Review. It is sufficient to indicate the evils here: they are the powerlessness or unwillingness of the Courts of first instance to economize the public time, slowness in recording vernacular depositions, the abuse of cross-examination, the subordination of facts to lengthy discussions on law and evidence, wrangles as to the relevancy or irrelevancy of questions, and prolix repetitions of arguments, the excess of the supply of legal practitioners over the legitimate and natural demand, the consequent fostering of litigation by a growing class of not over-respectable go-betweens, touts, "toineys," and clerks, time wasted in getting in unwilling witnesses,†

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\* *i. e.*, cases, in which the Police have no power to arrest without a warrant. Ind. C.P.C. 4 (*p*).

† There are four processes, namely, summons, warrant, proclamation and attachment of property: and finally, a notice is sometimes issued to the absconding witness, calling on him to shew cause why he should not be made over to the Criminal Court. It takes from four to six months to exhaust this procedure.

the non-production of witnesses from a fear lest the Court may not be able to take up the case on the day fixed, and the payment of pleaders by the day instead of by the job, or in proportion to the value of the suit. To this long list it may be added, that delay is often resorted to simply to harass an enemy, especially if he be a poor man, and the proceedings are often lengthened out and protracted in order to see if, owing to the uncertainty of our technical proceedings, and the extreme length of the ladder of appeal and revision, even a just claim cannot be successfully repudiated. The evils to be dealt with are of such a nature, that work is only increased by appointing an additional Munsif. Say a Munsif can dispose of 1,000 cases in a year: 1,500 are filed annually, and an additional Court is opened to relieve him. Possibly the first year each Court may get only 750 suits, but in a year or two—such is the demand for legal work—each Court gets its 1,000 and then its 1,500 cases. The fact is, there is not enough work for the native bar, and each new Munsif is but an additional carcass for the vultures to swoop down and batten upon. These evils would be enormously aggravated by the passing of a Code of Civil Wrongs. Such a code would, in the present condition of society and Civil Justice, be an additional vehicle for oppression, and the gratification of spite and enmity; and village Mukhtars and law-mongers would eagerly scan its sections and illustrations in search of novel modes of harassing an enemy or extorting black-mail.

A Code of Torts, being passed, the Law of Property was to be dealt with; and finally, there was to be a comprehensive and systematic chapter on interpretation. By the introduction of the rules of interpretation to a system, they would of necessity operate forthwith more strongly and uniformly on the legislation of the future. The reports of the English Courts, inestimably valuable to the lawyer and the judge if rightly and reasonably used, are not infrequently made the means of upsetting the law in India. A chapter on interpretation would interpose a timely check to perverse ingenuity. In the language of Lord Mansfield, "our jurisprudence should be bottomed on plain broad principles, such as not only judges can without difficulty apply to the cases that occur, but such as those whose rights are to be decided upon by them can understand."

The project of framing a Digest of the decisions of Indian Courts did not commend itself to the Commission. Of Indian judgments, as of books, it may be said: "Some are to be read only in parts, others to be read but not curiously; and some few to be read wholly and with diligence." If the Digest were to include all decisions, it would contain much rubbish;

if it were to be discriminative, it would be a bad form of legislation. In deciding which decisions were good, bad, or indifferent, the Government would have to determine what the law was or ought to be ; and while they were doing this, they might just as well legislate at once to prevent all uncertainty or contradictions.

To sum up, the recommendations regarding legislation of what may be termed the Stokes Commission were :—

- (1). To codify the laws relating to negotiable instruments, to the subjects dealt with by the Transfer of Property Bill, to trusts, to alluvion, to easements, and master and servant ;
- (2). To codify the law of wrongs ;
- (3). To codify the laws relating to insurance, carriers, and lien ;
- (4). To deal with the law of Property in its whole extent ;
- (5). To prepare a systematic chapter on interpretation ;
- (6). To abandon the project of framing a Digest of judicial decisions.

The results of that Commission were that four of the Bills reported on became law as the Negotiable Instruments Act (XXVI of 1881), the Indian Trusts Act (II of 1882), the Transfer of Property Act (IV of 1882), and the Indian Easements Act (V of 1882), while the remaining two, the Alluvion Bill and the Master and Servants Bill, have not yet been passed into law. Other Acts of general importance, passed during the period from 1877 to 1882, were the Specific Relief Act, the Limitation Act, and the Acts dealing with Opium, Stamps, Legal Practitioners, Foreign Jurisdiction and Extradition, Probate and Administration, Presidency Small Cause Courts, Criminal Procedure (X of 1882) and Civil Procedure (XIV of 1882)

This is how matters stood when Mr. Ilbert succeeded Mr. Stokes in 1882. India is also indebted to Mr Stokes for the consolidation of much current miscellaneous legislation, the results of which were embodied in the two volumes of English Statutes relating to India, the three volumes of General India Acts (1825-1876), and the ten volumes of Provincial Codes for the Lower Provinces, Bombay, Madras, Panjab, Oudh, Central Provinces, North-West Provinces, Ajmir, Coorg, and British Burmah. An admirable Index to the enactments relating to India was compiled by Mr. S. Jacob and published in 1880.

Mr. Ilbert was Legal Member from 1882 to 1887. On the assumption of his office, he made the following recommendations :—

- (1.) That a Code of Torts should be prepared by a draftsman working in England under definite instructions from the Government of India ;

- (2) That steps should be taken to ascertain whether the Hindu community desired the codification of any of the rules of Hindu family or property law ;
- (3) That a new edition of the Index to the Enactments should be brought out ;
- (4) That a useful Digest of Indian case-law should be framed.

As regards (1), Mr. Pollock's draft, which has been noticed above, was the result ; as to (2), nothing seems to have been done ; as to (3), we have the second edition of the Index published in 1883 ; and as to (4) we have Woodman's Digest in five volumes, completed in 1888.

From 1883 up to date, there has been no codification of importance. The following is a list of the most important measures passed :—

Central Provinces, Tenancy	... IX	of	1883.
Local Boards (N.-W.P., and Oudh).	... XIV	"	"
Municipalities ( )	... XV	"	"
District Boards (Panjab)	... XX	"	"
Emigration	... XXI	"	"
Explosives	... IV	"	1884.
Punjab Municipalities	... XIII	"	"
Punjab Courts	... XVIII	"	"
Bengal Tenancy Act	... VIII	"	1885.
Upper Burmah Laws Act	... XX	"	1886.
Oudh Rent Act	... XXII	"	"
Provincial Small Cause Courts	... IX	"	1887.
Bengal, &c., Civil Courts	... XII	"	"
Indian Marine	... XIV	"	"
Punjab Tenancy	... XVI	"	"
Punjab Land Revenue	... XVII	"	"
Inventions and Designs Act	... V	"	1888.
Debtors Act	... VI	"	"
Civil Procedure Code Amendment	... VII	"	"

Important Acts dealing with Local Boards, Mofussil Municipalities, and Presidency Municipalities, have also been passed by the Local Legislative Council.

There still remains a great future before Indian codification. The law relating to government, or constitutional law, should be codified ; then the Criminal Law admits of considerable consolidation, and requires amplification in several directions on the lines of Continental Penal Codes, numerous miscellaneous offences, such as cruelty to animals, should be dealt with in the code which applies to the whole of British India. Then a comprehensive Prison Code is much required. The law relating to the enjoyment of property should then be taken

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\* Some of those directions have been indicated in our articles on "Comparative Penal Law" in this Review, Nos. CLXIX, CLXX, and CLXXI for July and October 1887, and for January 1888.

up ; and the time seems to have arrived when the Hindoo law of inheritance may with advantage be codified. The Evidence Act requires to be recast ; and if sanitation really progresses, a code of health may soon be wanted. Lastly, the development of Local Self-Government under diverse Acts in different Provinces may necessitate some broad legislation on the subject of Public Law, that is, the law dealing with corporations.

In conclusion, native communities are rapidly advancing, especially in towns. If we wish to give a new expansive force to Native society, we should not confine ourselves to our narrow English legal system. A wider survey, a comparison of many systems, a truly philosophical induction is called for. The late Mr. Justice Willes remarked that a really well considered code for England should be based on a "comparison with the laws of other countries, *which cannot all be wrong.*" This is no less necessary for India, and the most recent dicta of juridical science, arrived at by the most expert continental jurists and publicists, should be fully utilised in the further codification of Indian Law.

H. A. D. PHILLIPS.

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# ART. X.—MALARIAL FEVER IN BENGAL.\*

WHILE reading through the annual reports of my predecessors, one of the points that struck me most forcibly was the very large number of deaths which occur annually from fever (malarial), and the consequent diseases that in many instances follow fever, viz., anæmia, diabetes, dropsy, enlargement of the spleen, &c. Taking the last five years, it will be seen from the statement given below, that the death-rate from fever every year was nearly three-fourths of the entire death-rate of the province, or more than twice as much as the death-rate of all the other diseases put together :—

NUMBER OF DEATHS AND RATIO PER 1,000 OF THE POPULATION OF BENGAL WHICH, ACCORDING TO THE CENSUS OF 1881, IS 66,163,881.										
NAME OF DISEASE	1881		1882		1883		1884		1885	
	Number of deaths.	Ratio	Number of deaths.	Ratio	Number of deaths.	Ratio.	Number of deaths.	Ratio.	Number of deaths.	Ratio
Cholera ..	90,439	1 36	134,421	2 03	173,767	2 62	118,368	1 78	172,578	2 60
Small-pox ..	9,714	14	18,533	28	9,863	14	4,049	606	3,846	505
Fever ..	913,766	13 81	966,233	14 60	1,047,142	15 75	1,057,296	15 97	1,087,768	16 44
Bowel-complaints	55,270	81	58,376	88	63,888	96	55,693	84	56,893	85
Injuries ..	23,670	35	24,674	37	28,356	43	29,781	43	26,630	40
Other causes	152,877	2 30	176,373	2 66	187,209	2 81	190,818	2 88	204,813	3 09
Total ..	1,245,676	18 81	1,378,610	20 83	1,504,745	22 74	1,485,305	22 99	1,552,528	23 46

These facts are very startling, and when it is remembered that every death from fever probably represents 20 or more attacks, it will be seen what a very large proportion of the population must have suffered. The question at once arises,

\* [This article has been addressed, as a Circular, to the Chairmen of Municipalities in Bengal. It has also been sent to certain papers. We break our usual rule of not inserting any matter that has previously been communicated to the press, or any portion of it for the following reasons : (1) the intrinsic merit of the monograph, which deserves to be preserved in a permanent form ; (2) the *Calcutta Review* is widely circulated in other Provinces, and we think the article should be read by members of Local Boards and Municipalities all over India.—ED.]



what is this fever or malaria which exercises such a terrible influence on the health and prosperity of the people; what causes it; and how is it to be prevented?

Malaria is thus defined in Webster's dictionary:—"Bad air; air tainted by deleterious emanations from animal or vegetable matter; especially noxious emanations from marshy districts, capable of causing fever or other disease; miasma." Dr. Maclean, a celebrated medical authority, says malaria is "an earth-born poison, generated in soils, the energies of which are not expended in the growth and sustenance of healthy vegetation." "By almost universal consent," he continues, "this poison is the cause of all types of intermittent and remittent fevers, commonly called malarial, and of the degeneration of the blood and tissues resulting from long residence in places where this poison is generated."\* A great deal of discussion has from time to time taken place as to the intimate nature of malarial poison, and much light has been thrown on the subject by the researches of Professors Tommasi Crudeli in Rome, Klebs in Prague, Laveran in Algeria and Italy, Osler in the United States of America, Vandyke Carter in Bombay, and other scientific authorities who have made the physical cause of the poison to which malarial fever is due the subject of careful investigation. Tommasi Crudeli and Klebs have found a germ in cases of malarial or intermittent fever, which they assert is to be met with in the soil and air of malarial districts, and can be demonstrated in the blood of affected patients.† Dr. Vandyke Carter of Bombay says that malarial infection can be acquired through both air and water‡

Whatever may be the active principle of causation of malarial fever, sufficient is known of the conditions under which such fevers occur to warrant the conclusion that the agent is, as stated in Parke's *Practical Hygiene*, "associated with some kind of decomposition or fermentation going on in the soil, especially when conditions come together of organic matter in the soil, of moisture, heat and limited access of air." There can be no doubt whatever that a humid soil is proverbially unhealthy, and marshy and water-logged lands have been recognized, the world over, as a cause of paroxysmal fevers. Professor Max von Pettenkofer's opinion is that humidity of soil is a necessary factor in the etiology of fever epidemics. Dr. David Smith, who was for some time Sanitary Commissioner for Bengal, says "there is constant and close connection between humidity of soil and high rates of sickness." The

\* Quain's *Dictionary of Medicine*, page 913.

† Ziegler's *Pathology*, page 297.

‡ Paper on "Some Aspects and Relations of the Blood-organisms in Malaria."

same authority asserts that "the fever of the Bengal districts is beyond all doubt an endemic malarial disease due to local causes, chiefly want of drainage, partial or complete stagnation of water-courses, and saturation of the soil with moisture."\* The late Hon'ble Rajah Digamber Mitter, C.S.I., a well-known and greatly respected zemindar, writing of the causation of malarial fever in Bengal, says "the type of fever met with in the epidemic districts is solely due to a something in the soil, and the condition most favourable to the development of that something, is excessive or abnormal humidity of the sub-soil. The cause which operates most powerfully to produce that condition, is impeded drainage : it is the inordinate humidity of the sub-soil of towns and villages, and not of the *paddy-fields* and *jullas*, which contributes to the outbreak of the fever with epidemic intensity."† Dr. K. McLeod, the late Health Officer of Calcutta, says that "nothing in the etiology of malarial fever is more certain than that excess of rain or inundation is followed by excessive prevalence and a fatal type of fever."‡ The Council of Hygiene of the City of New York reported, after a most carefully-conducted series of hygrometrical observations, "that any marked degree of excess of humidity in any locality was, without exception, found to be associated with an excessive constant sickness rate, and with all kinds of contagion and infection." Mr. Simon, Medical Officer to the Privy Council considers that "an undrained or damp state of soil in populous localities is dangerous to public health."§ In olden times Hippocrates stated that "the spleens of those who drink the water of marshes become enlarged and hard," and Rhazes not only asserted the same thing, but also affirmed that fevers were generated from the same cause||. In more modern times Lancisi has expressed the opinion that the air of marshes is the sole cause of intermittent fevers. Dr. Maclean, however, says "that marshes are not, as a rule, dangerous when abundantly covered with water : it is when the water level is lowered, and the saturated soil is exposed to the drying influence of a high temperature and the direct rays of the sun, that this poison is evolved in abundance."¶ The production of malaria on a great scale in this way was seen in the district of Burdwan not many years ago. The soil is alluvial, but dry ; and until within the last few years Burdwan was more

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\* Sanitary Report of Bengal for 1868.

† Digamber Mitter on the Origin of Epidemic Fever in Bengal.

‡ Report of the Health Officer of Calcutta for 1879.

§ Sterndale on Municipal Work in Bengal.

|| Parkes' *Practical Hygiene*.

¶ Quain's *Dictionary of Medicine*.

salubrious than the central or eastern districts of the Lower Gangetic Delta. The drainage of the district became obstructed by the silting up of its natural and artificial outlets, the result being a water-logged condition of the soil, the development of malaria, and an alarming increase in the death-rate.

I think I have quoted enough from high sanitary authorities to show that malarial fever is associated with the effluvia from marshes and low-lying and badly drained situations, which must be improved before any improvement in the health of the people can be hoped for. In the words of the late Hon'ble Rajah Digamber Mitter, who has already been quoted, "there is a perfect unanimity now amongst all those who have devoted their time and attention to the subject, as to impeded drainage being one of the chief causes, if not the sole exciting cause of epidemic fever." Dr. K. D. Ghose has also pointed out in the course of a lecture delivered by him in 1885 at the Bethune Society, on the sanitary outlook of Bengal, that "the cause of fever in Bengal is the want of proper drainage of the soil." "Drain the land," wrote Dr. J. M. Coates, who was Sanitary Commissioner for Bengal in 1874, "so that the rain runs quickly off, or keep the subsoil water so far from the surface soil, that the supersoil does not remain damp, decomposing, and evaporating, and healthy people are the result." \* Sir Ranald Martin, in his admirable work on the influence of tropical climates, writes as follows with regard to the question of draining lands in "the vicinity of marshes:—"It is not sufficient to convert the ground into a state of soft, low, meadow land; for the most dangerous exhalations are those which are retained and occasionally emitted from under a crust of earth during the drying process, whereby they would appear to acquire unusual concentration and prove the origin of the worst fevers. It is necessary that the grounds be thoroughly drained, leaving none of the characters of marsh." In all countries experience points to drainage as the chief preventive of fever epidemics, and shows that the population of towns has grown in health and in comfort, with the progress of drainage and reclamation. Hippocrates states that the City of Abydos had been several times depopulated by fever, but the adjoining marshes having been drained by his advice, it became healthy † Dr. William Fergusson tells us that in the colony of Demerara, within six degrees of the equator, the efforts of man directed towards drainage and agriculture

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\* Report of the Sanitary Commissioner for Bengal, 1874.

† Parkin on the Causation and Prevention of Disease.

have "rendered the deepest and most extensive morass probably in the world, a healthy, fertile and beautiful settlement."

We have a good many memorable illustrations of the same fact in England. Important reclamation and drainage works have been executed in Lincoln, Norfolk, Suffolk, Kent, Essex, Somerset, Cambridgeshire, Huntingdon, Nottingham and Yorkshire. These lowlying and so-called, "drowned lands" and poisonous swamps have been embanked, drained, and cultivated with the most happy results. The great level of the Lincolnshire fens, some 2,000 square miles in extent, which was once dreary and pestilential, is (since it has been drained and reclaimed) no longer the lurking place of disease, but as salubrious as any other part of England.\* It is not, however, necessary to search in the history of olden times, or even to look out of India for good results from thorough and systematic drainage. The City of Calcutta itself is a remarkable instance of the diminution in mortality from fever, and improved health since the city has been thoroughly drained. While the number of deaths from fever in the suburbs of Calcutta and the surrounding districts where there is no drainage, or the drainage is defective, shows no diminution, but rather a tendency to increase, the mortality from this cause in Calcutta grows less year by year with the extension of the drainage system. "Since the year 1879," writes Dr. J. O'Brien in his annual Health Report of the Town of Calcutta for 1884, "there has been a very remarkable and sustained reduction in the fever mortality of the city. During the years 1874 to 1879 the average annual number of deaths was 5030: in the four succeeding years, 1880 to 1883, the average fell to 3,655, or nearly 1,400 less, and in the past year (1884) the total was 3,618. The diminution in mortality from diseases of this class would appear to keep pace with the extension of the system of underground sewers, and with the improved surface drainage and reduced soil moisture which follows the introduction of sewers into undrained localities." Numerous other instances could be quoted to show, that wherever sub-soil drainage is effectually accomplished, good results, in a sanitary point of view, are conspicuous. But it is not necessary to multiply the examples already given.

It is of course not to be expected that mofussil municipalities, with their limited resources and many urgent needs, can accomplish as much in the direction of drainage as the Calcutta Corporation and other wealthy municipalities have done in as short a time, but with steady perseverance there is no reason why, in the course of a few years, the surface and sub-soil

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\* Dr. D. B. Smith's Report on the Drainage and Conservancy of Calcutta.

water which now saturates the areas of mofussil towns and villages should not be drawn off, and damp habitations thus rendered dry, and an amount of salubrity obtained which these localities have never known. If surface and sub-soil drainage accomplished nothing else, it would be worth all the money expended on it, as marking an era in the history of Indian sanitation. But there can be no doubt whatever that improved health and better physique would follow its introduction. Where now are to be seen wretched beings of sallow and ghastly countenance, looking twice their real age, with attenuated frames, shrunken limbs, muscles thin, and powerless, tongues of silvery whiteness (certain index of deadly marsh fever), pulses feeble and irregular, spleens and livers enormously enlarged, and pitiable languid gait, would be found men well knit, with their muscles developed, and their vital organs sound—altogether powerful, vigorous, healthy and happy.

In many towns great difficulties, other than monetary, will no doubt be met with before the desired result can be attained, but these should not be allowed to overbalance the advantages to be derived from a thorough and systematic drainage system. Great difficulties were at first experienced in England, but they gradually disappeared as improvement advanced. Not many years ago drainage improvements were as little known in many parts of England as they are at present in India, and much controversy and opposition preceded their introduction; yet populous and now flourishing districts have been drained in the face of great difficulties. There is no reason why similar results should not be obtained in India; and Municipal Commissioners should be urged to do all in their power, and devote as much of the municipal income as they possibly can, towards improving the drainage of their municipalities,—the only means by which the present enormous death-rate and suffering from fever can be diminished, if not altogether prevented.

W. H. GREGG, *Surg-Major,*  
*Sanitary Commissioner for Bengal.*

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[INDEPENDENT SECTION.]

ART. XI.—THE INDIAN NATIONAL CONGRESS.

THE National Congress is a new growth in the country and is the result of many changes that have come upon India in recent years. Its aims and objects are known to a few, mis-known to a few others, and unknown to many. I am one of those who hold moderate views upon this subject, which has divided the learned men of the country into hostile camps; and I beg to offer those views for calm and candid consideration.

The National Congress is a faithful attempt, on the part of the educated natives of all India to improve their political condition. It is natural that in matters which require the co-operation of many, some only should begin the movement, which, in its progress, gradually gains strength at every step. It is most irrational to require, as a necessary condition of a national movement, that the whole nation should begin it. We can only expect individuals to begin, though the nation will in time embrace it. Is there one single instance in the world's history, where any institution originated with a whole people? Will any one refuse to accept the truth of the law of gravitation because it was Newton alone who discovered it? The National Congress is composed of men gathering together in one place from all parts. These men are chosen at meetings held in those several parts. Perhaps they are not chosen by as many people as might be desired. It is an itinerant school of politics. It sits by turns in all the important centres of the country. It informs the people of their needs, and teaches them the cause of their sufferings. It helps them to know and seek remedies. It busies itself with questions of practical politics. It professes to do all that is necessary for the public good in a political point of view. It does not busy itself with social questions. Infant marriage, and such matters, do not fall within the sphere of its discussions. Public good is its watch-word. Public good is its goal. Public good is what it loves from the bottom of its heart. It strives hard against pernicious taxes and unnecessary restraints. All restraint is an evil. But in every society, there must be restraints. Liberties given to A. suppose restraints on other persons than A. not to violate those liberties. But restraints must be imposed discerningly. The Congress points out to the rulers the way to exercise this discernment. It tells them, for instance, that the Arms Act is a useless burden. It

endeavours to gain the hearing of the Government to the people's wants. Every Government must have at heart the improvement of the commonweal. A wise Government must always try to know the needs of its subjects and to satisfy them. The great majority of the country are dumb. They want interpreters; they must have spokesmen to communicate to the Government. It is not always true that the people know what they want better than the so-called representatives. It is not perfect truth that every one knows what is good for him better than any other. Adults must not be kept in leading strings; but children must be. Until they can walk, and walk with safety, they must be taught to walk and guarded carefully from dangers. The great bulk of India people are like children. Her educated men are their fathers. From their varied knowledge and wide experience, they know well what the country is in need of. Only folly and ingratitude can dare deny that our condition has been greatly improved since the advent of British rule. It must, however, be confessed that there is much to do. In the press of business, even the most enlightened Governments may pass unconsciously over some real grievances. It is an impossible task for them to allay grievances which do not reach their ears. The National Congress is the medium through which they reach the ears of the Government. That seems to me to be its exact position. There exists no very grave reason why the integrity of the delegates should be much doubted. In every country, in every clime, there is a class in power. In India, at present, it is the educated class that is fitted by their station and talents to form and guide the sentiments and opinions of the public. In my humble opinion, the educated class, as a whole, is tainted with some superficial vices. Our ancestors were not unlearned. They had schools, colleges and universities; they composed immortal works. Panini's Sutras are the pride and admiration of any nation or age, and the imperishable monument of the Hindu's unsurpassed genius and unrivalled ingenuity. The six systems of philosophy were founded by the greatest masters of human nature which the world has ever seen. We must assiduously learn whatever is good in them. Civilisation has taken a new turn. The current of Western ideas must not overwhelm indigenous notions. There is no need for changing our dress or modifying our manners and customs for the sake of mere change. Let us absorb whatever is good, come whence it may, and at the same time retain whatever is excellent in us.

Some people have been asking, what is this Congress? What has it really done? These people judge of usefulness by results. But what is the true standard of the utility of an institution? It is but natural that men should have a good opinion, of

anything which in the end proves a success, and a bad opinion of anything which in the end proves a failure. But such a test cannot, with any fairness, be applied to an institution which was established only the other day, as it were. They greatly err who estimate its utility by the actual good it has done. The true estimate is by the amount of possible and probable benefits it may confer upon the country.

The benefits of the National Congress are direct and indirect. Directly, the National Congress widens the circumference of Indian politics, enlarges the sphere of her aspirations, and will bring to us a larger share of liberties and privileges. We must not imagine that all this will be, the work of a year or two. The English House of Commons, which has sat for so many centuries, is still fighting for enhancement of privileges. By its very nature, political advancement is the work of time. We must show ourselves deserving before it is given to us. Until the people at large distinctly know what the Congress is, what its nature, what its scope, what its constitution, and what has been its work, we shall be considered as undeserving. The truth is that the great majority of the natives are in a state of political darkness.

There are also many indirect benefits we have reaped, and will reap with the aid of the National Congress. In the first place, it will produce orators of the highest excellence. Eloquence is only a second-rate faculty. But eloquence has been a pioneer at all times and in all countries. Our country, which has had the greatest and noblest teachers and religious preachers, wants political preachers now. That want will be supplied from the National Congress. Secondly, the National Congress is a sort of university of politics. Our ideas of the British Parliament are vague. It requires a strong imaginative faculty to picture to ourselves what takes place in that great assembly. Our notions of political assemblies are flitting; there is no permanency about them. The National Congress invests them with an air of reality. The words and phrases, which hitherto we had only indistinctly conceived, become distinct. Experience corrects theory. Reason confines imagination.

Thirdly, a spirit of liberalism is infused into men's minds. We cease to think that there is no world like ours beyond us, and that we are the only superior beings. Selfishness is uprooted. Contact with men of different provinces, their manners and customs, teaches us a spirit of toleration and mutual forbearance.

But in the most general applause, discordant voices will always be heard. There are a set of objectors to the National Congress and its doings. Of late, their clamour has increased.



## ~~THE INDIAN NATIONAL CONGRESS.~~

The sum of actual and possible objections is, that the National Congress is a misnomer, that a few individuals, pluming themselves on the name of delegates, without any authority to warrant the name, cannot represent the views of the nation; that by no possible means can the great and various tribes of India, speaking different languages, be united into one nation; that we ought not to claim so early what the English have attained to in the course of long centuries; that the nation is not ripe for what the Congress asks; that in reform, social questions must take precedence of political ones; that what is beneficial in England may be pernicious in India; that certain classes of the community are not represented; that the deep questions of political science cannot be discussed in an unwieldy assembly like the Congress. Let us take these objections one by one and see what truth is there in each.

As to the first objection; that the National Congress is a misnomer, it has already been partially answered. How far back can we date the period, since which the English House of Commons can be truly said to represent the English people? Under what restrictions and limitations was the electoral body formed? Was not the House of Commons so called before the whole English people had any voice in the elections? Why need I justify what needs no justification? There are certain lawyers and judges, who by a too close adherence to formalities, which neither sense nor law requires, defeat the real objects of the law, and dismiss suits without inquiring into the merits. It is even such an absurd procedure they adopt, who object to the *name* "National Congress."

As to the second objection, that the inhabitants of India can never become one nation: No doubt, at present, the customs and manners of the people differ vastly: they speak many languages: strong religious feelings tend to keep them separated. But all these causes of disruption are becoming every day of secondary importance. English is becoming the common language of communication between peoples inhabiting different parts of the country. Further, class failings have no share in the reforms proposed to be effected through the instrumentality of the Congress. To weld, therefore, into one homogeneous mass, to be known as the Indian Nation, the various peoples of India whose traditions are hallowed by the same historical fountain, to unite them in pressing for reforms which are for the common interest of all India, is not a chimera, but a practical political problem, the conception of a real constructive genius.

The third objection is, that we ought not to claim so early what the English have attained to only in the course of long centuries. On the face of it, this objection is trifling. What

does the objection mean but that we should transport ourselves to rude and uncivilised times, so that we must ascend, step by step, to where we are now, and then proceed? To what purpose, indeed, do we read history, if not to benefit ourselves by the accumulated knowledge and experience of the world's master minds? What is it which demands of us that we should not adopt those political institutions which we find so well answer, and so well flourish in other countries?

The fourth objection is, that the nation is not ripe for what the Congress asks. Here, indeed, is a valid objection. The Congress is composed of influential and educated men. Every enlightened Government defers to the opinions of the educated class of the community. But it must take care that the educated class have moral as well as intellectual qualities, which give weight to their opinions. They must possess integrity as well as knowledge. In the present state of our society, there is certainly reason to look with suspicion upon the claims of the Congress. Our educated men often look with contempt upon the uneducated. They cannot fully enter into the feelings of the masses. The masses, too, have their own prejudices against the educated class, and often look upon them as outcasts. There is no use in attempting to answer this objection by mere words. The most effective way of shewing that the objection is unfounded, is by deeds. We must put in practice what we preach. When we expect others to have more sympathy with the rustic, we must follow up the exhortation ourselves. There is another defect on which much stress may be laid, and very properly, I think, by the opponents of the Congress as justifying the above suspicion. In Madras at any rate,—I cannot speak of other Provinces\*—on the occasions of appointments to lower employments in various departments (with great sorrow and shame, I say it), I have heard people ask the question, whether the incumbent of the office can get any, and what *Melvārumbadī* as they call it in Tamil. This *Melvārumbadī*, translated into English, is additional income. This additional income is nothing but illegal gratification; bribery, the subject of the gravest of all offences against public justice. People seem to look upon it as a natural incident to Government employments. *They have not the slightest idea of its criminality.* In view, therefore, of recent disclosures of corrupt practices in the judicial and revenue departments in the Madras Presidency, and the apathy of the general public in appreciating the justice of the punishment meted out, nay, the sympathetic disapproval

\* [This was written before the Crawford Commission.—ED.]

of such punishments, I should be strongly inclined to oppose the grant of any measures which involve the bestowal of any electoral power on the people at large. If, for example, the reform of larger representation in the councils were to be granted now, I fear it would be a very doubtful boon. The amount of caution necessary to sift the electoral body, and in the last resort, the representatives of the councils, would probably not be exercised. Moreover, I should fear that many most irregular, eccentric, and corrupt influences will be brought to bear upon the elections. I should, therefore, prefer to consider the demand for this reform as a demand which cannot and ought not to be granted at present.

The fifth objection is, that in reform, social questions must take precedence of political ones. This raises the question, whether political improvement and social improvement may go on apace, or whether either should precede the other. The question, indeed, is a very pressing one. Its solution cannot long be postponed. My own opinion is that political and social improvement may go on together, each acting on the other, and in its turn acted upon by the other; that though progress on the social line will be advantageous to that on the political, still it is not absolutely necessary; that though social reforms will accelerate political progress, yet, their absence cannot retard political progress.

The sixth objection is, that what is beneficial in England may be pernicious in India. This objection overlooks the truth, that human nature is the same everywhere; that notwithstanding varieties of country and climate, a nation's wants and aspirations are similar, especially if they come from the same race, and possess equal intellectual strength. Despotisms, no doubt, have sometimes produced good, and democracies have often been pregnant with evil. But what is essential in any form of Government is, that the people, or those who may fairly be supposed to represent them, should have the means of apprising the Government of their needs.

The seventh objection is, that certain classes of the community are not represented. This is not a fact, and if it were, whose fault is it? Who denies the right to the classes which are not represented? Their claim is in no danger of being overlooked. It is in no party spirit the Congress works. It is a common cause the Congress is engaged in. So far are the congressmen from entertaining the slightest intention of perpetuating disunion in India, that they are trying their utmost, and devising all possible means to induce the masses to sink private animosities and religious ill-feelings in one grand cause.

The eighth objection is, that the deep questions of political science cannot be discussed in an unwieldy assembly like the

Congress. Here is a real difficulty. It were vain to deny it. I will not undertake to give any definite answer to this. The recondite problems of political philosophy, are, in my opinion, unsuited to the discussions of assemblies like the Congress. The evil can only be palliated.

Such are the objections, actual and possible, and I have tried to answer them. The delegates of the Congress are not working for their own aggrandisement. They are working for themselves and for others. The delegates may be self-chosen sometimes; but what matters it whether self-chosen or otherwise, provided their aims are unselfish?

The question at issue between the Congress and its opponents is a question of means. No dissentient voice will disturb the common consent as to the end. The end is public good. No one will deny that political improvement, improvement of the people in civil status, is a department of public good. The only difference is, whether the Congress is the proper instrument to achieve our end in that department of public good. No one can doubt that it is a fit instrument, if the Congress is really what I have expressed it to be. On this, however, unfortunately, there is room for more than one opinion. Not much can be gained by meeting together once in a year for three or four days and then dissolving after much speechifying. In the period intervening between a Congress and the next, the delegates should try to educate the masses as far as they can. To those who have had actual experience of the meetings and proceedings which are reported in native newspaper, they will appear very sorry work. I do not wish to underrate the importance of such meetings. Those who attend them are those who already know something of the Congress. Now and then a more than ordinary speaker addresses the meeting, and presents to them some new points of view, and places before them some new arguments for or against the Congress. To ask every one who knows anything of the Congress to go out and preach, will be dangerous, and will result in much useless stuff being poured into men's minds.

The people have remained for ages strangers to political organisation. The most elementary principles of Government are yet to be learnt by them. Their minds must be approached by slow advances. To put before them the developed idea of Representative Government, the slur, real or supposed, involved in the Arms Act, the proposal for organising a system of volunteering, is not possible, and will be useless, if it were possible. When people have for a long time been used to despotic government, *i. e.*, government by a king to whom was attributed the characteristics of God, thus formulating the idea of what was afterwards known in England in the 17th

century, as the Divine right of kings, that is the only Government they can understand : when they have no distinct conception of what is meant by loyalty and slur upon loyalty, when they have absolutely no idea of volunteering, its object and necessity, when, in short, the idea of personal irresponsibility and Government responsibility are the predominant genii of the popular mind, it is useless to entrust the duty of instruction to half-informed men. There have not been as yet in the Mofussil of this Presidency any real attempts to instruct the masses. The fourth Congress is shortly to be held,\* and much earnest work is being done in the way of electing delegates to the Allahabad Congress. The local enthusiasm is great ; but it is mainly confined to the few. The minds of the uneducated are dormant. The first duty, therefore, of every person, interested in the well-being and prosperity of the Congress, is to get for himself a clear, unadorned idea of it, and the next, to impart that idea to his ignorant brethren, with all the arts and precautions of a careful instructor of youth, for many of the educated are mere tyros in politics, and many of the people are mere nonentities. He must, lastly, make them realise the import and significance of the various measures it is proposed to urge upon the Government for acceptance ; for, only when the Government knows that the people have lent the sanction of their voice, will the measures be granted.

K. S. GANAPATI AYYAR,

B. A. & B. L.

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\* [This article was written before the last Congress.—ED.]

[INDEPENDENT SECTION.]

ART. XII.—THE NATIONAL CONGRESS.

A CONVERSATION:

BETWEEN

\* SYED HUSSAIN ALI, AND

BAROO BHAGOBUTTY BOSE, M.A., B.L., \* *Congress Traveller.*

*Traveller.*—Syed Saheb, I was unsuccessful in getting an appointment in Government service. So I became a licensed preacher of the National Congress. I am a servant of the Indian Nation. My duty is to go from town to town, and village to village, to explain the objects of the Congress to the people and to enlist their sympathy with this noble movement. You are a literate and an able man. You must know all about the Congress from the printed reports and pamphlets, and especially from the controversy between Farid-ud-din and Ram Buksh. It is not therefore necessary for me to enter into details. Please inform me whether you co-operate with us. *πρῶτον γὰρ ἔστω, ὅτι μὴ*

*Syed Saheb.*—Well, from your prologue that you are a slave to the Nation, and that you have undertaken a public duty, I was able to understand that you are a creature of the Congress-wallahs. Your being a paid servant convinces me that you have no alternative but to be so. Your disappointment in not obtaining service under Government obviously shows that the fire of rage is burning in the furnace of your heart.

Listen to me, please, I am a man of old fashion and have been brought up in indigenous schools. I am altogether opposed to the Congress. Somebody sent a copy of Farid-ud-din and Ram Baksh's dialogue to me by post, and I heard that about 50 copies more came to my villages from the same unknown source. I read the book and found that it contained no facts, but was a store of imaginary falsehoods. The author's intention is to spread sedition by means of his sweet words. I collected all the books before they were read and reduced them to ashes.

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\* [We have had to curtail the original a good deal. In the original, there are also, a Reporter and four Arbitrators, who invariably concur with the Syed Saheb. There is a long introduction, dealing principally with caste, which we have entirely omitted. We have toned down expressions here and there, and have improved the English in places. The original was written in Urdu by a Mahomedan gentleman of the North-West Provinces. It will be seen that Mr. B. Bose is vanquished by the eloquence and cogency of the Syed's arguments.—ED.]

I am ready to discuss with you the aims and objects of the Congress, and I declare candidly that if you will convince me by the force of your eloquence that the Congress is generally a useful institution, I will plainly admit that I have been won over.

*Traveller.*—Very good—let us now enter into a regular debate. Setting apart for the present the advantages of representative Government, the manner of establishing such a Government, and of giving it a shape as set forth in all their details in the conversation between Farid-ud-din and Raqn Buksh, let us note the energy and public spirit displayed by the author in the composition of the book ; how graphically he has depicted the true state of the children of the soil, and how cleverly he has brought the book to an end. Now tell me if the book is not such that it might be appreciated and read attentively by the people, the amelioration of whose condition is its ultimate aim ?

*Syed Sahib.*—I am obliged to you for your kindly setting aside for the present the question of representative Government and its corollaries. By this wise arrangement, the discussion on each point will remain within reasonable bounds. Now to speak of the merits of the book and its general features, I am of opinion that the author displays a sad want of common sense throughout the work. To show the prosperous state of the public, he has fixed upon an imaginary village calling it Shamspur, whilst to show the adverse state, he has chosen another village naming it Kambakhtpur. The descriptions which he gives of these villages are so purely imaginary, that such places never had, and never could have existed. Their existence is impossible. When you compare two objects with an intention of calling one of them good and the other bad, it is necessary that both the objects should have an actual existence. Wise men never believe in things which do not exist in reality.

*Secondly.*—The author has called the Government of Shamspur representative, but, he has shown that in village politics only Dharam Singh and his co-sharers had a voice. It is nowhere stated that the tenants were also listened to or consulted. If Shamspur could prosper without the lower orders being consulted, it follows that, to render a place prosperous, it is not necessary that the Government of that place should be representative.

*Thirdly.*—The author has made an ignorant Mukaddam hold parley with an M.A., B.L., on matters political. The Mukaddam sits as a cypher to admit everything that falls from the mouth of the speaker. He does not put the speaker's propositions to any test by cross-examining him or questioning the truth of his assertion. Under such circumstances I am of opinion that the conclusion arrived at cannot be termed sound.

*Fourthly.*—Amongst the alleged evils that are said to result from the want of representative Government, the author has included the delinquencies of the Police as the most revolting. He has shown these delinquencies in such a light that his remarks lead one to believe that the Government wilfully permits the police to prey upon the people in a high-handed manner. But it is not so in reality. The truth is that the Government always regards the Police with suspicion. It is so keenly alive to its irregularities, that in the Evidence Act the framers of the law have provided that no confession is to be taken as such, if it has been made when the party making it was in the custody of the Police. The reviews of the annual administration reports and the English newspapers abound with complaints against the Police. It is a pity that you do not point out any remedial measures, but only point out the defects already known.

*Fifthly.*—By expressions like the following:—"our Government is undoubtedly despotic, and a despotic Government when long continued is bad for every country, and we and our country are suffering in a hundred ways on this very account," the author has avowed that his object is to spread discontent, which in course of time will lead to seditious attempts to overthrow the Government.

In short, the book teems with folly and sedition, and is, in my opinion, deserving of the treatment it has received at my hands.

*Traveller.*—In addition to the preliminary remarks against the book, you have summarized the defects of the book under five heads. If you permit me I will reply to each of them separately, so that the train of ideas may not be confused.

*Syed Saheb.*—I agree, and beg further to inform you that my lengthy introduction was a necessary rejoinder to your vague statement.

*Traveller.*—That a man may become fond of a thing, it is not necessary that the thing should be one having a real existence. The description of its qualities is enough; for instance, Paradise has not been seen by anybody, but a mere description of its charming beauties has an attraction for people. Sharnspur is an imaginary name. You are at liberty to put the name of an English County in its place.

*Syed Saheb.*—People believe in the existence of Paradise because they are bound by the doctrines of their religion to have an implicit faith in its existence, and also because they have heard about Paradise from the prophets, belief in whose veracity is their bounden duty. With all this, if the opponent does not believe in its existence, he cannot, on any earthly ground be compelled to do so. In addition, I have to say that your argument about Paradise does not hold good in political matters, where facts and nothing but facts are admissible.



*Traveller.*—If actually the book does not show that Dharam Singh consulted his tenants, this is to be counted as an inadvertent omission. Coming to the soundness of reasoning embodied in the pamphlet, I will urge that since the Government of the country has passed into the hands of the British, the country has become poor. All classes of the people, *viz.*, cultivators, servants, traders and zemindars are now worse off. They are treated as if they were brutes, a deaf ear is turned to their cries, and they are subjected to every species of cruelty. My question is—whether the time has not come for the country to shake off its torpor and open its eyes to the tyranny under which it groans?

*Syed Sahab.*—My answer is that your accusations are entirely false and groundless. The bare truth is that the condition of all classes of natives has much improved since their good fortune has placed them under the benign rule of the English. You say that the state of the cultivators is now bad. This implies that there were days, say in the "Nawabi,"\* when this state was good.

Now, if there is any truth in what you assert, there would have been visible signs or remains of their previous affluence. You must show that they have left goods, houses, or estates for their children. But as neither you nor anybody else on earth can show any such signs of the so-called affluence of the cultivators who lived in the Nawabi, I must positively deny the assertion that the cultivators formerly were in a better condition.

I allege that the state of the cultivators is now better, and in proof of my statement, I allude to a fact of which living witnesses are still to be found. It is a known fact that, in the time of Nawab Asif-ul-doula, there occurred a famine in Oudh when grain was sold at an average price of 13 seers per rupee. This price told so heavily on the peasants, that not being able to keep themselves alive, thousands of *krishans* (cultivators) sold their sons and daughters. The descendants of hundreds of slaves sold in that famine are still seen in towns and cities. Now draw an inference about the better state of the tenants of our time, from the fact that grain is universally selling at the above, or only a little higher rate; still, our tenants manage to maintain themselves and their families and children. They are not reduced to the painful necessity of selling their beloved sons or daughters. If you say that their poverty is as great now, but that they dare not sell their children in the face of the Slavery Act, I reply that were they in such poverty as to be reduced to see their children starve, they might make

[\* The Nawabi, *i.e.*, the era of Mahomedan rule.—ED.]

them over to rich people that the children may receive support in return for services rendered. No such sign of their poverty is to be observed. To all appearance they do not seem hunger-stricken, but on the contrary, they are well-contented and healthy. Watching carefully the way in which they perform their domestic rites, you will gather other facts which will establish the truth of their being in better circumstances than their forefathers. Their ancestors were so poor that, in defiance of the custom followed by all other classes, they gave their daughters in marriage to anyone who paid them money, and being too poor to part with any part of even this ill-gotten gain, they used to hand over the girls to the purchasers without any ceremony, leaving it for the purchaser to get the union sealed by a Brahman at his own house. This form of marriage was known as "Dowla." The present generation is gradually doing away with this objectionable system of selling girls, and is replacing it by regular marriage which costs them a good deal. Their tendency towards this reform would have been thwarted in its very commencement, if their pecuniary state had not been gradually improving.

At their festivals they now look brighter, better-fed, and more contented than they used to do on such occasions in former days. Their females appear in better dresses, and are often seen wearing silver ornaments, which were unknown to them in "Nawabi." These are nothing, if they are not signs of a better state.

In "Nawabi" the cultivators' share of the produce was so small that, finding it inadequate to meet their bare wants, they were compelled to supplement their income by working as day labourers. Now, the cultivators have no necessity to work as day labourers, and hence the scarcity of labourers. So that whilst in the Nawabi we could get a coolie for 6 pies, we can hardly get him now for 2 annas.

Past Governments never concerned themselves with the condition of the cultivators, but the British Government is always looking to their welfare. The Government have conferred the following benefits:—

(1.) Canals have been constructed to guard the tenants from the calamities of drought.

(2.) For the first time in the history of India, the Government has given fixity of tenure to the tenants, and prevented their arbitrary ejection.

(3.) Government has encouraged the tenants to improve their holdings, by enacting that they will have the benefit of their improvements.

(4.) Government keeps the village papers so carefully, that it has now become almost beyond the power of a Zemindar to

deceive the cultivators by realizing more than what is justly due from them.

(5.) Government has cleared jungles and has thus brought more land into cultivation.

(6.) It has started a system of *Takavi* (advances) which assists the tenants very much in purchasing live-stock and seed and procuring implements of husbandry.

(7.) It has established an Agricultural Department, and appointed scientific men, whose duty it is to devise measures of improvement, and bring them to the knowledge of the tenants.

(8.) It has instituted Agricultural Exhibitions, which, serving as fields of competition, encourage the tenants to improve their grain and live-stock.

(9.) Over and above all, it has given absolute security of life and property, which alone is the prime factor for the development of agriculture.

In short, Government protects the cultivators from oppressive and rapacious Zemindars, as is proved by the Tenancy Acts passed for various Provinces.

*Traveller.*—Why has the rate of rent risen so high? Can you assign any other reason for it except that the Government has assessed excessive Revenue. Again, tell me, whether the Government does not charge rates for the water which it supplies from its canals.

*Syed Sahab.*—With respect to the Revenue, it is enough to say that it is not more than proper. The share which our present Government takes from the produce of the soil is half the net produce, nominally: it is actually not more than a tenth of the gross produce; but even the enlightened Akbar took one-third of the gross produce. As to the canal rates, the Government has, in token of its solicitude for its subjects, made these canals at an enormous expense, and employs thousands of men at an aggregate cost of some lakhs annually to maintain them and supervise their working. Is it unbecoming, under these circumstances, for the Government to levy a light tax?

*Traveller.*—But do you not think the condition of those in service has grown worse?

*Syed Sahab.*—It can be shown that the number of appointments has vastly increased. The English Government has created many Departments and offices which did not exist in "Nawabi." The Courts, Criminal, Civil and Revenue were not so many as they are now. The Departments of Education, Medicine, Vaccination, Sanitation, Post office, Canals, Customs, Opium, Public Works, Police, Railway, Telegraph and Jails either did not exist, or only to a nominal extent.

Under Hindu and Mahomedan rule, appointments were given only to certain classes. The British Government has thrown open all appointments to those who are fit for them. You, with your equality and representation theories, surely cannot condemn this liberal policy. It is enough to say, that office posts are far more numerous than under Nawabi rule, and that a very large number of natives are holding appointments. Government cannot undertake to give employment to all its subjects. Even a representative Government could not satisfy all place-seekers.

*Traveller.*—But can you explain why the Government has reserved so many posts for Europeans, and why it pays Europeans at so much higher a rate?

*Syed Sahab*—A ready answer to this question is that the English nation has conquered India, and therefore there is no reason why the Europeans, in their capacity of conquerors, should not have special rights. History proves that when the Hindus were the rulers, they allowed special rights to Brahmans and Chattris who were placed so high, that the lower orders were told to adore them as celestial beings. All the posts of trust and importance were in their possession. When the Mahomedans gained the empire, they in their turn allowed almost all the appointments to be monopolized by men of their own race. The English Government has done nothing of the kind. They have reserved some of the important posts for Europeans, and have given all the rest to you, and this they have done before they could test your loyalty. They increase your share of appointments by degrees as you become qualified and educated. Take any district for instance, and see that out of many thousand public appointments sanctioned for it, only three, or in some instances four, are occupied by Europeans, while the rest are in our hands. The few in possession of Europeans require tact, training and honesty of purpose, which, in my thinking, are possessed by only a very few of the men of our country. Were the Queen to call back the Governor-General, the Governors, the Lieutenant-Governors, the Judges of the High Courts, the Commissioners, the Deputy Commissioners, the Collectors and the Heads of all the Departments, and were she to confer those appointments upon the graduates of the Indian Universities, or upon the hatted and coated native Barristers, or upon the shrieking Editors of slanderous native papers, how would the country fare? One shudders to think of it! Your education is dark ignorance compared with the education of the European. From what I know of the true nature of my countrymen, I have no hesitation in saying that their rule would cause anarchy throughout the length and breadth of India. Then,

imagine for a moment, whether the change would be liked by the native public? No! to tell you the truth, the mass of natives are suspicious of you, the educated few, and have a strong faith in the honesty and impartiality of Europeans.

I have proved that the country (the obstinate educated few excepted) requires the services of Europeans, and in that case it does no wrong if it pays them at higher rates. They come from beyond the ocean, and expose themselves to the burning rays of the sun, leaving friends and relatives, and often wives and children. They leave a civilized country, a happy life, and congenial climate for exile in a strange land. Why should they be paid inadequately? Then you see how expensive an establishment they have to keep here, not for luxury, which is not their national character, but merely for the purpose of keeping themselves alive. They also deserve higher remuneration by virtue of their attainments. You know that merit is always rewarded, as can be seen by the fact, that when natives of ordinary merit are called to serve under the Indian chiefs, they claim and get remuneration which is not less than what the Europeans get.

*Traveller.*—Has not the condition of the commercial community deteriorated?

*Syed Sahab.*—The term commercial community made use of by you is very comprehensive. For facility of argument I will split it into two sub-divisions (1) merchants, and (2) manufacturers and artisans.

I will urge that the English Government has prudently initiated into India the wise policy of free trade. It has not closed the door of the Indian Mart against any nation, nor has it confined the Indian traders to their own country. There are now merchants in your own country who spend lakhs in public and charitable purposes. Compare the present state of your village cloth merchants with their past state, and you will find that now they have grown so rich that they not only sell cloth, but also lend money and purchase estates. The same can be said of almost all classes of merchants. I will not, however, be able to reply to such silly statements, (if you raise them) as that the *gariwallas* (cart-drivers) and the inn-keepers have been put to loss since the Railway lines have been opened. I will also not reply to the statement that those who had made it a profession to run as messengers, have lost their profession since the post-offices have been established. Go to a grain mart and see if business is not now brisk, when thousands of carts are engaged in carrying grain for the home and export trade. Was it brisk in "Nawabi," when the grain was either not allowed to be removed or could not be removed through the fear of dacoits or want of roads?

In "Nawabi" a man having a small income was unable to keep himself and his family neatly dressed, or to provide himself with articles suitable for domestic use. How altered is the state of things now. So cheap is every article of requirement now, that a man of ordinary means is able to live almost as comfortably as a rich man formerly. This blessing has been obtained by us only through the policy of Free Trade.

Now, taking the case of manufacturers and artisans, I have to admit that their business has deteriorated, and the reason is that, the clumsy articles which they make slowly by handicraft cannot stand competition with the pretty articles made by machinery, that are imported by foreigners. But if you allow a Free Trade policy, you cannot but have the decay of the local industries. And you yourselves allow and encourage such a state of things, as appears by the fact that, in spite of your vehement patriotism, you give the slip to your own weavers and shoemakers, and go to shops of foreign wares because in them you can get better clothes and shoes. Has the Government passed any law rendering it incumbent upon you to wear and use things made in England? No! The Government has not made any such law, but your countrymen themselves have made it a law of their society to wear and use good articles, and good articles can only be bought from outsiders. Now observe, that the Government is not as indifferent to the state of your artisans and manufacturers as you yourselves are. Although it can get better and cheaper articles from England, it has still issued orders that nothing should be indented for from England which is made in India. What can easily be done is to teach the Lucknow men not to make *chikan*, the Benares men not to make *zari*, for which there is so little demand, but to make things of which there may be actual demand. Maulvi Mahommed Husain, now assistant Director of Agriculture and Commerce, when in England, made a tour throughout several counties of Great Britain to ascertain whether anything made in India could find a sale in that country. He discovered that there are articles made in India, which if sent to England, could be sold at a considerable profit. He sent out a list of such articles and tried his best to create in his countrymen a spirit of enterprise, but he failed.

*Traveller.*—Let me hear now your views about the state of the landed proprietors.

*Syed Sahab.*—The Zemindars, big as well as small, are now much better off than they were in "Nawabi." In "Nawabi" the settlement of land revenue for a fixed period was unknown. Turn to the pages of history, and you will find that something like an attempt to make a settlement for 10 years was made for the first time by Akbar, but the scheme originated and

died with him. The revenue was assessed arbitrarily almost every year by the Dewan of the Nazim or the Chakdár. The Nazim in most cases held a division under the *Ijara* (farming) system. His policy, therefore was to squeeze as much money out of Zemindars as he could possibly do. The Nazims or the Chakdárs had only to tell the Dewan to be mindful of their interests. They then passed their own time in the company of the dancing girls and buffoons. The Dewanji, as the prime mover, first of all realized his *nazar*, which varied according to the means of the giver, and then fixed the amount of revenue which in all cases used to be exorbitant. The Zemindars, or at least 50 per cent. of them, were unable to pay it up. To save themselves from the disgrace or torture they expected to receive at the hands of the Nazim or the Chakdár, they use to conceal themselves in their *garhs* or houses which looked like fortresses. The Nazims sent forces to fight with them. In some cases they surrendered at once, while in other cases they held out till the Nazim received reinforcements from the king's regular army. The Zemindars who yielded or who were caught were exposed to various tortures. Sometimes they were confined in cells which were first filled with smoke. Sometimes they were made to stand under the rays of the sun on red hot bricks. Similar means of putting them to disgrace and trouble were devised by the Chakdárs. Such was the treatment which they received at the hands of those who held sway over them. They had no access to the King or could have applied for redress. The weaker had to yield to the stronger. There was no redress for wrongs, and so the value of landed property was very small.

But the state of things has altered since the English Government has taken possession of India. The Zemindars are now considered to be men of position and respectability. The Government has made a settlement of revenue with them, permanently in some places, and in others for terms of not less than 30 years. The assessment has been made on the gross rental shown in papers prepared by the Zemindars' own Patwaris. It remits or suspends the payment of revenue in cases of drought, hail, storm and similar calamities.

Under the just and impartial rule of the English, bloodshed has ceased. The Government has made laws, and opened Courts to administer it. Such Courts equitably settle the disputes between Zemindars themselves and between them and their tenants. In their turn the Court officials themselves are restrained by law, so that they cannot oppress the people with impunity. Those who have seen the Zemindars under the past as well as under the present Government, know that as compared with the former time, the Zemindars now look like princes. Another proof of their being in a better state

is to be found in the fact that the value of the land is now 15 times higher than it was under native rule. Further, the Government has raised the social position of the big Zemindars by making special laws for them, and also by investing many of them with Magisterial powers. It regards their welfare with such fostering care, that it does not desert them when they bring disasters upon themselves by their own folly. An illustration of this can be found in the fact, that when they incur debts through extravagance and their estates are in danger of being sold, the Government rescues them from ruin by putting the estate under the management of its own officers, and by gradually paying off the debts. Some people say that the Government has curtailed the proprietary right of Zemindars by giving a sort of permanency of tenure to the cultivators. But the tenants must have some protection from arbitrary ejectment, in order that they may devote their attention and skill to the enrichment and improvement of the lands comprised in their holding, and it is to the Zemindars' own interest if by improvements the yield of the land is increased. Further, the prosperity of an estate depends on its tenants being in a state of peace and contentment, and this state cannot be secured unless the tenants are given some sort of fixity of tenure.

You are also misinformed as to the way in which the Government treats the natives. You have either shut your eyes, and do not see what is actually the state of things, or you have made it a point to speak ill of the Government with or without reason. My personal conviction is that the present Government is more just, merciful, vigilant and careful than any Governments that have preceded it in India, and so far as my information goes, I know that the same is the conviction of numbers of my countrymen, both Musulmans and Hindus. I will now describe some of the advantages bestowed upon us by our kind Government: To enhance the value of these advantages, I should have first shown the state of misery through which India passed under the mismanagement of Hindu and Mahomedan rulers, but as they are well-known to every man who has read any history, I will not lengthen my speech by recounting them. Now, judge how many new institutions have been opened or established by the present Government for bettering our state. We have colleges and schools in large cities, towns and villages. Our children receive education in them for nothing, or they pay insignificant amounts in the shape of fees. The teachers are bound to treat pupils as if they were their own children. At every central station and in other parts of the district, we have dispensaries where we can get medicines free of cost. The Vaccination



Department is another blessing for the young generation of our country. The Post offices, Railways, and Telegraph contribute to add to our convenience. When the country is visited by plague or famine, the Government does all in its power to alleviate the distress of its subjects. The Government has constructed numberless roads and streets, which have been shaded by avenues of trees. It has almost rooted out the dacoits and thugs, and has rendered our lives and property secure from plunder. It has cleared the jungles which were the haunts of wild beasts that preyed upon mankind. You are wrong in saying that your cries are not listened to. The Government has given liberty to your press simply to enable its officers to become acquainted by that means with your grievances and complaints. You misuse the privilege thus given to you, but the Government is so lenient that it does not deprive you of it. The doors of the Courts, established by the Government all over the country, are open to people of all ranks and positions. And although you are not qualified for it, the Government has given you a right to give your free opinion on the laws and acts that it makes or enacts for you. It has given you liberty to such an extent, that it has given you a right to sue the Sovereign, if by the act of Government officials your civil rights are transgressed. What else do you want of Government?

*Traveller.*—We, the Congress people, urge that our country has been ruined by the present form of Government, and that therefore we must unite and agitate to get the form of Government altered. You have shown me that the country has not been ruined, and in so doing you have upset the very foundation upon which the fabric of the Congress is built. Still, I would ask you to consider whether some of the reforms advocated by the Congress ought not to be adopted.

*Syed Saleh.*—If my arguments have found favour with you, I should say that it is due to the fact that I have two advantages over you, namely, age and moderation of views. I have seen more of the world than you, and have witnessed the variety of phases through which the country has passed during the period of the last 60 years; and as a young man I could never have believed that the country would ever attain to the peace, wealth, and prosperity which it now enjoys. It appears that nature has so arranged matters that each succeeding phase has features that are more attractive and charming than those possessed by its predecessor. Let our discussion take the following form:—"What is the National Congress? What are its aims and objects and the method of its working? Whether and will its endeavours better the state of the country?"

*Traveller.*—Very well, I will commence. The National Congress is so called because it does not represent the interests of any one particular religion or race, but of the whole population of India generally, and because it is composed of men of every creed and caste.

*Syed Sahab*—Excuse me, but I object to the very name of your assembly. You call it national, which apparently means that it represents all the classes, castes, and creeds of which the population of India is made up. The truth is that the population of India is divided into scores of sections, each section professing a different religion, and having diverse social and domestic customs and rites. Such customs, and the observances of such rites, have widened the gulf between the different sections to such an extent, that the same will probably never be bridged over, not even in the most distant future. Their languages are different, and their ways and manners are dissimilar. The handful of men forming your Congress cannot be called representatives of their interests, and in fact they do not accept you as their representatives. Apply any other epithet you please to the Congress, but do not bring disgrace upon the people of India by calling it National.

*Traveller.*—We are the leaders of the National party, and we represent the entire culture, and our followers the entire intelligence of the country. As our force is recruited not from this or that class, but from all classes alike, we are correct in calling it National.

*Syed.*—The term "National party" is perfectly meaningless, as there is no one nation in India, and never will be, and your assertion that you and your followers include all the culture and intelligence of the country is false. Culture is the act of cultivating the mind by the acquisition of knowledge, it matters not whether the acquisition is through the vehicle of Arabic, Persian, Sanskrit, or English. Now, you know that in almost all classes there are men who have cultivated their minds through Arabic, Persian or Sanskrit. Like you, if not better than you, they have studied history, and they read the news of the day in the papers. They know more of politics than you do, but they do not co-operate with you. As they are not represented in your Congress, you are not correct in saying that you include all culture. As for intelligence, I say without the least hesitation, that intelligence is a natural quality existing from birth. It is not the result of knowledge, but is only improved and enhanced by it. You see hundreds of B. A's. who are fools, and at the same time you see thousands of uneducated (in your sense of the term) merchants and others who are very intelligent. In proof of my assertion I could name many hundreds of men in my own town who have not received an English education

like you, but are still talented and wise. These men do not see things in the same light as you do, and therefore it is not right for you to say that you include all the intelligence of the population of India. These classes are not represented in your so-called National Congress, as is manifest from the list of the persons constituting it at your Madras meeting. I will not call them delegates, because they were not delegated by anybody. The assembly was mainly composed of Hindu pleaders and graduates, all of a few Hindu castes, and a few benighted Mahomedans. The most correct name for your assembly would be, "A knot of discontented English-knowing agitators."

*Traveller.*—Call it by any name you like, but as the intrinsic value of everything is known by its utility, let us first see the aims and objects of the Congress, and then pass an opinion as to its utility or otherwise. The objects of the Congress are threefold :—

*1st.*—The fusion into one National whole of all the different classes, creeds and castes that constitute the population of India.

*Syed Saheb.*—In a liberal point of view, the object is very noble. Hitherto, all the elements of the Indian population have had discords and disputes with one another. To bring about a reconciliation between them is an effort in the right direction. But whether the effort will be crowned with success is a question very difficult to answer. My opinion is that the effort will prove fruitless if it is actually made. The population of India is mainly divided into two parts, *viz.*, Hindus and Mahomedans. These two parts can never be cemented together; in the first place, because religiously they stand as far asunder as the poles, and secondly, because the feelings of the one can never be sympathetic towards the other. The Hindus hate the Mahomedans to such an extent, that strict Hindus never allow a Moslem to touch their clothes, much less their bodies. Their food gets impure the moment a Mahomedan happens by accident to go within the limits of the square which they draw on plain ground, and within which they sit and take their meals. Let a poor Mahomedan be dying of hunger or thirst, they will not give their utensils to him, so that he may take food or water. Their ill-treatment of Musalmans has increased tenfold since the latter have lost their empire. They now do things, not absolutely required by their religion, simply to insult the Mahomedans; as an instance of this, I will mention the Rām Lila Mela, which, though not strictly enjoined to be observed, has been held by Hindus during the last three years with unnecessary pomp and *éclat*, just because it coincided with the time of the Mohurrum. The Salem riots, when the Hindus made an attempt to utterly

extirpate the Mahomedans of that place, must still be fresh in the memory of the people. English education has only served to make the Hindus more inimical to the Musalmans. They have formed *samajes* and societies, sworn to keep all appointments and good things among themselves, and not to let the Mahomedans have a share. They press the Mahomedans to leave off cow-killing and give up beef-eating, though the Mahomedans find it cheap, palatable, and wholesome. They move heaven and earth to get a law on the subject passed by the Government, but the Government are too just to pass such a law. Then they love to raise temples in the vicinity of mosques, wherever possible, and having done so, blow the horn or sound the shell just when the Mahomedans congregate to pray. The Mahomedans in their turn are either helpless and unable to make a stand against the Hindus, or they are too afraid of the law to return evil for evil. It is only when they are insulted beyond bounds that they resort to the arms in which the Hindus are no match for them. Fusion between Hindus and Mahomedans was impossible, even when Mahomedans were rulers, and it was therefore the object of Hindu subjects to be conciliatory. How much more is it impossible now! Let alone the Mahomedans, the Hindus themselves are split up into numerous irreconcilable divisions. You Congress-wallas are trying to create a union by falsely persuading them that their lot is hard, and that they can better it by rising in arms against their rulers. You do not openly advise this, but it is plainly to be inferred from your seditious speeches that your object is to spread discontent throughout the country.

*Traveller.*—We do not want union in religion, but only in other matters. As to ill feeling between Hindus and Mahomedans, I think the Mahomedans are principally to blame.

*Syed Saheb.*—The Mahomedans are then wanted by you only to give strength to your movements. They will be unwise if they disregard their religious tenets and assist you in getting the upper hand, and thus jeopardising their religion. Besides, if you once achieve your ends, you will soon forget the Mahomedans and secure all the fishes and loaves for the people of your own religion.

*Traveller.*—The second object of the Congress is the gradual regeneration of the Indians along all lines, mental, moral, social, and political.

*Syed Saheb.*—Regeneration? Along all lines! But the social evils and cancers, which disfigure your society, are not so much as mentioned by your speakers. Hindu society is more indebted to one man, Mr. Malabari of Bombay, than to

the whole of your Congress-wallas. You call your agitation constitutional, but you are trying to produce a revolution. If you had any other ruler than the English, you would be executed, or at least clapped into prison. You cannot deny that you are working up the minds of the people to rise against the Government. If you deny it, I will prove it from your pamphlets.

(1.) In your Tamil Catechism you call the Councils mere shams.

(2.) In the same book you tell the people that they are not governed properly by the Governor-General and the Governors. They are to unite and bring pressure to bear on the Government until it gives more power into their hands.

(3.) In the seditious pamphlet of conversation between Farid-ud-din and Ram Baksh, the Queen is compared to Raja Harbans Rai, and it is said that she never comes to see us or cares anything about us, but leaves everything to her officers, who are held up to execration as cruel, obstinate, unjust and dishonest.

(4.) India is compared with Kambakhtpur (an ill-starred place), and its Government being despotic, is said to be the worst in the world.

(5.) The Government, being termed despotic, is shown to be cruel and merciless: callous to the good of the country, and always eager to squeeze more and more out of the people, until they are only skin and bone.

(6.) Government officers are painted in very gross colours, and it is said that the Government does not try to employ good men.

(7.) It is said that as the rulers govern badly, they are ruining the people and the villages. Further on it is alleged that despotism long continued, entails much suffering, and that India is suffering many evils from despotism.

Imagine for a moment the result of such expressions! They are calculated to create discontent and revolt, and this is plainly the intention of those who use them. The people of Bombay, Madras, and Bengal are not warlike; but if the warlike races of the North-West Provinces, Oude, and the Punjab are deceived into the false belief of securing a better state, they may rise in a body to demand what the Government cannot give to them.

In conclusion, I tell you that India will improve in prosperity, not by every man becoming a politician, but by united efforts to suppress the bad customs that are rife in every society; and above all, by the pursuit of independent professions, and not by a blind reliance upon the Government for appointments.

*Traveller.*—But we never advise the people to raise a mutiny.

*Syed Saheb*—Yes, you do, though you may not say so in plain words, because you are afraid of certain sections of the Indian Penal Code. But whatever you say by implication is much more effective and to the point: To tell a man in plain words to go and cut the head of a third person is the same thing as to put a sword in his hand, and indicate to him by signs or hints that it would not be a bad thing to sever the head of the intended victim.

*Travellers*—Let me pass to the third object of the Congress. It is to consolidate the union between England and India.

*Syed Saheb*.—Nonsense: you might more reasonably say that the object is to disunite England and India. Your third object is a bush, behind which you conceal the venom which you spread through your first and second objects. Your plain object is to make people suspicious of the English, to collect them in the battlefield and see them fighting with their rulers. Your intentions are to suffer the Government to continue, only if it gives over the management of the empire into your own hands, and watches your doings from a distance. Is this the way in which you repay the Government for the kindness with which it has given you education and the blessings of peace and civilisation?

*Traveller.*—I must maintain that we are loyal.

Now, I will mention some of the resolutions passed at our last meeting. The most important of them is that the Councils must be expanded and reformed.

*Syed Saheb*.—The Mahomedans in defence of their own religious and secular rights will object to this system of so-called representative Councils. Their number is so small, and they are so backward in education, that they will always be outvoted by the Hindus. The Hindu members sitting in Council will do all they can to further the cause of their own co-religionists.

What sanction have educated Hindus for doing right? They have no religion, and fear no God; and for this reason they have no morality whatever. You are at least two centuries behind a people like the English. We are thoroughly satisfied with the laws already made. The Government has extended your rights in Municipal matters, and you have only made an utter confusion of everything wherever municipalities have not been presided over by Government servants. Insanitation flourishes, and roads have deteriorated. Of this there can be no doubt. Influential Babus commit offences against the Municipal laws, but the native Chairmen are so afraid of making enemies, or losing their popularity, that they dare not prosecute them. If they venture to prosecute, they have civil suits brought against them, where no such suits would

be brought against a Magistrate, as the action of the Magistrate is known to be impartial, and therefore acquiesced in. The concessions which the Government has already granted to us are unparalleled in the history of the country. Congress-wallas allege, that the English, being foreigners, are ignorant of our customs and wants. This is not so. They have an intimate knowledge of our country. They have written books about the castes and nationalities of India, from which you educated gentlemen may well take lessons. The time will never come in India for representative Government.

*Traveller.*—Another of our requests is that the Budget may be placed before us for discussion before it is sanctioned.

*Syed Sahab.*—That, indeed, would be preposterous ! What do you understand about budgets ? Your most educated men are children compared with high-European officials. You overrate your education and intelligence. But there is no law to prevent anyone from expressing his views on taxation and Government. Should the Hindus produce writers like Adam Smith and Mill, the Government will no doubt listen to them and consider their proposals. There is no country in the world where more opportunities are given for the full and free discussion of measures before the Council. Opinions of all classes are freely invited.

*Traveller.*—The other demand that we make is, that the Government should repeal the Arms Act, and allow everybody to possess and wear arms without taking licenses.

*Syed Sahab.*—This request is a mere trick, and springs from your disloyal intentions. The wearing of arms is the mark of a savage country. You do not see people wearing and carrying arms in European countries. You are jealous that Europeans in India have the privilege. This is mere sentiment. Are members of the ruling race not to retain one single privilege ? Anyone, who is not a budmasn, can get a pass for a gun on payment of four annas. If licenses were not required, arms would get into the hands of bad characters, and surely you do not advocate this. There are so many guns in the country, that even harmless birds are being ruthlessly exterminated. What other Government in the world would allow a man to have a gun for four annas ?

In conclusion, the laws are fair, just, and suitable ; taxation is very light ; the land revenue in your country is permanently settled ; everywhere the tenancy are assured fair rents, some fixity of tenure, and freedom from arbitrary ejectment. Courts, Civil, Criminal, and Revenue are numerous, and are easily accessible to all ; your persons and property are quite secure—even more secure than in some European countries. Prisoners in

jails are now being treated almost like patients in hospitals. Many probably get better and more certain meals than when they are out of jail, and they are treated with clemency and humanity. Owing to the multiplicity of registration offices, title is more secure, and forgery has been made more difficult. There are Charitable Dispensaries in every town, and small-pox has yielded to the extension of vaccination. The English want to give you perfect drainage, good drinking water, and other sanitary improvements; and you well know that you yourselves place the chief obstacles in the way. But for native obstruction, malarial fever would long ago have been rendered less obnoxious. As to education, what am I to say? For that has brought about these evils. Other countries are asking for free education, but you have already got it. As to the native press, you know that such gross license would not be tolerated by any other Government in the world, whether Western or Oriental. Then communications are getting better everywhere, and new railways are being made. You can write to your friends in distant countries for two pice. It would be impossible to enumerate completely all the benefits that the English have conferred on your country. Then why do you cry for such imaginary benefits as expansion of Legislative Councils, free fire-arms, volunteering, &c.

*Traveller.*—Syed Saheb, your eloquence and arguments have convinced me. So long I have been walking in the dark. Now my eyes have been opened.

*Syed Sahib.*—Praised be Allah! He only is great.

A MAHOMEDAN.

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## ART, XIII.—EARLY BRITISH ADMINISTRATION IN INDIA.

*A Sketch of the Administration of the Hooghly District from 1795 to 1845.* By George Toynbee, Magistrate and Collector of Hooghly; Calcutta: Bengal Secretariat Press, 1888.

WE briefly noticed this book in our January number, and promised a further review. We shall pass over the history of the early English, Portuguese, Dutch, French, and Danish Settlements, and confine ourselves to the account of the administration, particularly noticing any information which may be of interest to the administration of to-day. A perusal of these chronicles should suffice to cure the most inveterate *laudator temporis acti* of a tendency to bewail the "halcyon past." Those who are attached to anything that has an "ancient and fish-like smell" will be shaken in their belief in the "good old days."

### *Criminal Administration.*

The criminal administration first demands notice. Mr. Secretary Dowdeswell, writing in 1809, bears the following testimony to the state of the Hooghly District in that year:—"Were I to enumerate only a thousandth part of the atrocities of the dacoits, and of the consequent sufferings of the people, and were I to soften that recital in every mode which language would permit, I should still despair of obtaining credit. Robbery, and even murder itself, are not the worst features in this hideous and disgusting picture. An expedient of common occurrence with the dacoits, merely to induce a confession of property supposed to be concealed, is to burn the proprietor with straw or torches until he discloses the property or perishes in the flames. Volumes might be filled with the recital of the atrocities of the dacoits, every line of which would make the blood run cold with horror. These enormities, be it remembered, are still committed with impunity in the immediate vicinity of the capital of British India." In 1814 we find the Judges of the Court of Circuit bewailing the great prevalence of false cases, which they include under the head of conspiracy. Affrays were not apparently very common. Although the zemindars kept large bodies of *latials*, they used them chiefly as *nugdís* for collecting rents, and they had to register them in the Magistrate's office under Regulation V. of 1812. The indigo-planters are spoken of as a peaceable and well-disposed class.

Highway robbery seems to have been common, as we are told by the Magistrate in 1837 that the Tribeni to Guptipada road and the river route to Moorshedabad were regarded as dangerous in the extreme, and that the former could only be travelled by day and in parties of seven or eight. "It is curious," says Mr. Toynbee, "when viewed by the light of more recent experience, to find the Magistrate recommending the trial of dacoits by jury as the best means of stopping dacoity. His argument hardly appeals either to our modern notions of justice or to our experience of the actual results of trial by jury. He says that the evidence in such cases is often so deficient and contradictory that, although he may believe the accused to be guilty, a Judge sitting alone will not take upon his conscience the heavy responsibility of convicting, but he thinks that *the jury as a body would willingly do so.*" The italics are ours, and we cannot agree with Mr. Toynbee in considering the Magistrate's recommendation curious. Nor does Mr. Toynbee appear to be correct in stating that the Magistrate's argument is not in accord with the actual results of trial by jury. Mr. Beighton has shown in his article on Trial by Jury \* that juries are unwilling to convict of homicide, but very prone to convict of theft, robbery and especially dacoity. Dacoity is a species of crime of which the jurors themselves may at any time be the victims, and hence their sympathy for the victims. It is well known that dacoits used not always to confine themselves to robbery: they would sometimes perpetrate an even graver offence against the female inmates of the house, and this phase of dacoity is said to be very common now among the young bloods of Burmah.

In a letter written in 1836, there are some interesting particulars of convictions for "contempt of court," which seems to have covered all offences not otherwise provided for. Among others are mentioned the following contempts:—

- (1.) Cutting a tree on a public road.
- (2.) (Mohurir) neglecting to send a return which had been called for.
- (3.) Throwing filth near the gate of the Cutcherry.
- (4.) Not giving assistance to troops on the march.
- (5.) Being drunk and disorderly at night.
- (6.) (Jail burkandaz,) allowing prisoners at work on the road to buy food.

The practice of Suttee was abolished by Lord William Bentinck in 1829 by Regulation XVII. of that year. The records show that, between the years 1815 and 1829, no fewer than 1398 widows sacrificed themselves on the funeral pile in the

\* Calcutta Review, No. CLXXI. for 1888.

Hooghly district alone. Probably many more cases were not reported. From 1830 onwards, there are constant reports regarding the prevention of Suttee. These reports are to the following effect :—" I (the Darogah) effectually and without disturbance restrained the woman from her purpose and gave her into the charge of the Gomastah and Mundul. For two days she refused food and declared she would die by starvation. Her resolution failed her on the third day, and she has since been perfectly contented."

### *The Police.*

Under the Mahomedan Government the zemindar was entrusted with the duty of keeping the peace within his zemindari. On our assumption of the Dewani in 1765, it was found that the zemindari organisation had fallen into a state of complete disruption and decay. Regulation XII. of 1793 withdrew the powers and responsibilities (except in the way of affording information and assistance) of the zemindar, and vested them in the police darogahs and in the bukandazes and village police under them. The darogahs were allowed Rs. 10 for every dacoit convicted through their exertions, and 10 per cent. on the value of the stolen property recovered if the thief was apprehended. This arrangement continued until 1807, when owing to the continued prevalence of dacoity or gang-robbery, Lord Cornwallis, by Regulation, XII. of that year, introduced the system of appointing zemindars, tehsildars, and farmers as police *ameens* or assistants to the darogahs, and with concurrent jurisdiction. The principle of thus recognizing local influence, knowledge, and responsibility was no doubt a good one; but in *practice*, owing to the complete disorganisation of the land revenue system by the sale and resumption laws, it was found unworkable. Owing to the success of the special deputation of Mr. Blacquiere to Hooghly and the surrounding districts, with a view of breaking up the gangs of dacoits by means of *goindahs* or informers, the office of Superintendent of Police was created by Regulation IX. of 1808. This office was abolished by Regulation I. of 1829, the duties being made over to the Commissioners of Revenue and Circuit, but was soon afterwards revived under a new name—that of Dacoity Commissioner. Against the system of employing *goindahs* (spies), Mr. Ernst, who was Magistrate of Hooghly in 1809, entered a vigorous protest, but he was overruled. The employment as police *ameens* of zemindars and others was not found to work well, and was abolished. The police arrangements were slightly modified and consolidated by Regulation XX. of 1817, and continued to work under that law up to and beyond the year 1845.

The oppressions of the darogahs and their subordinates are still a tradition, and beside them the complaints against the police in these days pale into nothingness. They were even a greater terror to the innocent than to the guilty: Writing in 1814, the Magistrate says:—"The darogahs feel a pleasure in hearing of the commission of a dacoity. . . . They proceed to the spot on the pretext of making inquiry into the circumstances. . . . They summon every respectable inhabitant, and form fictitious tales of discovery for no other purposes than those of oppression and extortion, or in other words to ransack people's houses and to collect money from them as the price of their exemption from being sent to give testimony before the Courts." A favourite means of extortion was to arrest all the females of accused persons as accomplices, and not to release them unless a confession was made or a bribe given. In 1837 the Magistrate had to dismiss 13 out of 18 darogahs! These were the "good old days"! As compared with those times, the "Konishtabol" of 1889 is an angel; his fangs have been extracted by education and good Government. The Singhs, Rams, Pandays, Dubais, Tewaries and Upadhyas, hailing from Chupra, Ballea, Goruckpore, and other parts of Behar and the North-Western Provinces, no longer find it such an easy matter to intimidate, oppress, or extort money out of the Bengali ryot or shop-keeper.

#### *The law's delay.*

The delay in the disposal of cases must have amounted in numerous instances to a denial of justice. In 1841 a correspondent mentions in the columns of the *Englishman*, that he came across two parties offering up devotions to the sacred Gunga. "I therefore came up to the parties, and on asking the reason, learnt that he was the complainant engaged in devotions and rejoicings, not for obtaining his case, as may be naturally supposed, but because he had just got himself free after a troublesome attendance before the Magistrate's Court for the period of *eleven months* with his witnesses, and was on the point of going homeward to join his business, which had suffered most materially from his long absence. The other party stated that they were the defendants, and although each of them was fined a few rupees, were not sorry on that account; but that they had at last been released, after a vexatious attendance on the Magistrate with their respective witnesses for eight months, and would now be able to proceed to their home and join their business."

#### *The Village Watch.*

The village policemen appear to have been the principal thieves. Mr. Brooke, Magistrate of Hooghly in 1799, writes,

"Long experience of the character of the village *paiks* show that they are themselves the robbers, and that no robbery can be committed without their collusion or connivance." In his Report on crime in the Hooghly district in 1814, Mr. Brodie says: "the greater number of robberies and dacoities are committed by the village watchmen, who select houses from which the males are absent. Instead of being a safeguard to the people, the village police are the chief source of their molestation; yet upon the fidelity and vigilance of this class of people the prevention of crime rests. They are not looked upon by the zemindars as watchmen, but as public servants, subject to the call of everyone to show the road, convey messages or to carry burdens. No nightly watch is kept up by them, and few robberies occur in this district unless actively aided or secretly abetted by them. They are of the lowest rank, drunken in their habits, squalid and horrid in their appearance." During his tour, Mr Brodie arrested 100 of these officers, and confined 30 or 40 of them for bad livelihood. After reading such descriptions, we should feel more satisfied with the "*punchaity*" chowkidars of to-day. It was the practice of many Magistrates regularly to flog the chowkidars when they were unable to discover the perpetrators of thefts in their villages. A circular of the Nizamut Adalat, issued in 1828, desires Magistrates to refrain *as much as possible* from this form of punishment on chowkidars.

In 1836 Mr. Samuells proposed certain remedies for improving the village police:—

- (1.) To remove altogether the influence and interference of the zemindars, and their right of nomination;
- (2.) Chokeedars to be nominated by darogahs in consultation with the villagers concerned, and to be appointed by the Magistrate;
- (3.) To wear a distinctive dress or uniform;
- (4.) To attend frequent parade inspections;
- (5.)—To hold not less than 12 bigahs of land each;
- (6.)—The pay of salaried chokidars to be collected by a Panchayat.

It will be seen that this officer's views were far in advance of those of his time. He issued orders that none of the chokidars should work for the zemindars, but this order had to be withdrawn as regards the *malsaranjani* paiks, as they fell under Section 41, Regulation VIII. of 1793. A similar order was issued a few years later in 1840, but the late Babu Joykissen Mookerjee carried the matter to the Privy Council, and got the order cancelled.

*Jail Management.*

Up to the year 1835, jail prisoners received a daily allowance in money, and purchased their own supplies from the jail *moodee* (provision-supplier). Up to 1795 they were not allowed to smoke, but that restriction was then withdrawn as being prejudicial to their health, and they were allowed to purchase tobacco if they chose. In 1805 each prisoner's allowance was fixed at 3 pice, or three puns of cowries. Owing to the change in the currency, 3 puns of cowries had become in 1831 equivalent to only one pice, and the allowance was therefore fixed at  $\frac{5}{8}$ ths of an anna, which, the Magistrate said was fully equal to all the wants even of the prisoners working on the roads. Here is the daily ration of a prisoner:—

	Annas Gundas Cowries.		
$\frac{3}{4}$ Seer-rice	..	1	14 0
$\frac{1}{2}$ Pao dhál	..	0	10 0
$\frac{1}{2}$ Chittack ghee	..	0	10 0
Do. salt	..	0	10 0
Vegetables	..	0	10 0
Fire-wood	..	0	20 0
5 or 6 chillams of tobacco	..	0	0 10
Leaves for plates ...	..	0	0 10

Some very barbarous punishments were inflicted; they formed part and parcel of the Mahomedan law, by which Magistrates and Judges were then guided. Life-convicts were branded on the forehead by the process known as *godena*, with their name, crime, date of sentence and name of sentencing Court. Whipping was inflicted from 1794 to 1796 with the "cat," but the "korah" (whip) was again resorted to in the latter year, until it gave place to the cane or rattan. Whipping seems to have been a common punishment, and in 1797 we find the Judges of the Nizamut Adalat commending for general adoption, an invention of the Magistrate of Dacca, namely, "a jacket of strong hide, so formed and fitted as to cover and defend from injury the whole of the forepart of the body and the neck and loins behind, leaving exposed only that part of the back and shoulders on which the stripes ought to fall." The corpses of prisoners who had been hanged were after death exposed to public view, and no one was allowed to remove them. Up to 1810 the execution was carried out at head-quarters, but in 1810 the criminal was executed at the spot where the murder or dacoity had taken place. Another curious form of punishment was that of "tashir" (public exposure.) On the 25th October 1797, the Magistrate of Nuddea writes to the Magistrate of Hooghly:—"The Court of Circuit having sentenced certain culprits to be *mounted on asses*, and there being no animals of *exactly that species* to be found in Kristonugger, I request that you will cause the bearer to be

assisted in procuring a couple in the vicinity of Hooghly, where I understand they are to be found in plenty. I am not altogether clear how far I should be warranted in mounting them on a mule, which I could procure here, but which from his excessive waywardness, might probably inflict a more severe punishment than is intended by the Court of Circuit."

This punishment, and that of branding were abolished by Act II. of 1849. The practice of gibbeting was discontinued in 1833. All prisoners sentenced to labour were, unless found too old, weak, or diseased, employed in gangs on the public roads.

#### *Land Revenue matters.*

The operation of the sale laws in the Hooghly district between 1795 and 1845 was far more harsh than it is at the present time. The zemindars did not then enjoy the modern facilities of paying their revenue by remittance transfer receipts, or revenue money-orders. Every petty landlord, who could not afford to keep an agent at the sudder station, had at *first* time to make a long journey in person. Again, the revenue could only be paid into the treasury of the district in which the estate was actually situated. It gradually however dawned on the revenue authorities that the sale of estates for very small balances was a severe measure, which often defeated its own object. Consequently, in 1829, the Commissioner gave the Collector full discretion to sell or not, as he thought fit.

It is a noteworthy fact that no *remission* of revenue was ever allowed in the Hooghly district up to the year 1845, in spite of the heavy losses by flood in most of the pergunnahs. *Suspensions* were often asked for and granted, but *remissions* were never granted.

Rent-free tenures seem to be very numerous in the Hooghly district. The Collector in 1836 submitted a list which showed in the Burdwan Raj alone 27,722 such tenures had been granted, containing an aggregate area of 801,922 bigahs. The road-pass returns of the Hooghly district show that 69,718 such tenures, with an area of 496,706 bigahs have been assessed with road-pass. The estimated number in 1878 of those which had still escaped assessment was 75,282, with an area of 149,872 bigahs.

An interesting bit of information is the Collector's salary bill for December 1827, made up of the following items:—

					Rs.
Salary as Collector of Land Revenue	...	...	...	...	1,500
Abkari Commission	...	...	...	...	237
Stamp	...	...	...	...	362
Tolls	...	...	...	...	72
Salary as Collector of Customs	...	...	...	...	250
					<hr/>
Total					2,421

This payment by commission must have acted as a spur to lazy officers to look after the revenue. The Collector subsequently received a percentage also on the value of revenue-free lands resumed and brought on the towjih. The Assistant Collector's salary was Rs. 200 +  $\frac{1}{8}$ ths. of excise or stamp commission (if doing work in those departments) and Rs. 5 for every 1,000 stamped papers signed and authenticated by him!

### *The Excise Revenue.*

By Regulations II. and XXVII of 1793, legal provision was made for the collection of the excise revenue by the Collectors on behalf of Government. Previous to that year, Lord Cornwallis' Regulation of 19th April 1790 had prohibited the manufacture of liquor without a license, and a Regulation of 14th January 1791 had provided for the granting of such licenses to distillers and to vendors. The excise system of 1793 was the outstill system, with a daily tax of Re. 1-4, 12 annas, or 6 annas, according to the site of the shop. That there was a good deal of excessive drinking at the beginning of the century is proved from many sources, and particularly the Fifth Report of the House of Commons. It is not to be wondered at that drinking should always have prevailed in a country where the materials for distillation are so cheap and lie so ready to hand. In 1816-17, the net revenue from excise in the districts of Burdwan and Hooghly was Rs. 1,04,419, while the revenue from stamps was Rs. 1,13,047. In 1828, the Collector, reviewing the excise administration of Hooghly for the previous ten years, remarks that the greater the number of shops, the less the revenue seems to have been; that the amount of arrears collections was appalling, and that the opium revenue was much interfered with by smuggling in French Chandernagore. The price there was 5 to 7 tolas, as against 3 tolas per rupee in English territory. The average price now in most districts of Bengal is two tolas per rupee. If the price rises above 8 annas a tola, it presses somewhat hardly on bona fide consumers. Considering that opium taken in moderate doses is considered to be beneficial, that it is an important ingredient in the British Pharmacopœia, that it is to invalids in India what brandy is in England, and lastly, considering that the price of a pernicious drug like ganja is actually less than that of opium (in some districts it is only four annas a tola), any measures tending to enhance the price of opium are probably to be deprecated.

### *Miscellaneous Revenues.*

. On the acquisition of the Dewani by the East India Company in 1765, the inland salt trade (with betelnut and tobacco)



was vested in an exclusive Company for the benefit of their European servants, who enjoyed the profits of the concern in lieu of salary.

The first complaint as regards the damage done by cattle-trespass was made in June 1795 by Mr R. Chapman, an indigo-planter at Chuttergunj, in the thana of Chandraconna. He complains very bitterly of the damage done to his indigo "weed" by stray cattle, and asks that the darogah of the above thana may be authorized to seize such cattle, sell them, and from the proceeds recoup him the amount of damage done. These complaints were constantly repeated by the European planters and zemindars of the district, up to 1830, when Regulation V. of that year was passed, but for the protection of indigo only. A pound was in the same year established in Chinsurah at the request of the military authorities, and was managed by the two European constables stationed there. In 1834, the serious damage done not only to indigo, but also to the rice and other crops of the cultivators generally, attracted the attention of the Judges of the Nizamut Adalat, and they prepared the draft of a Regulation on the subject, which followed very closely the lines of subsequent legislation. In the same year the police were ordered to seize, bring to the thana, and levy fines on all cattle caught in the act of trespassing on the Government embankments, the Superintendent of which had repeatedly represented in strong language the damage done to them by the cattle of the villagers. The pound receipts in 1836 and 1837 average Rs. 635, in 1886-87 they amounted to Rs. 8,037.

In 1828 there were only four public ferries: in 1840 the number had increased to ten. The following comparative table of the rates of toll in force at Fultah and Pursurah ferries is interesting:—

		1833.	1883.		
			Rs.	As.	P.
Passenger	...	10 gundas	0	1	0
Do. with load	...	1 pfn	0	1	6
Sheep and goats, each	...	10 gundas	0	0	3
Cattle	...	2 annas	0	0	6
Do. loaded	...	3 "	0	1	0
Horses	...	6 "	0	6	0
Pony	...	2 "	0	3	3
Elephant	...	Rs. 3 "	1	8	0
Camel	...	12 annas	0	6	0
Palki and bearer	...	8 "	0	8	0
Carriage and pair	...	1 8 "	3	0	0
Buggy and horse	...	1 0 "	1	0	0

The rates at the other ferries were only half the above rates. It is surprising that the charge for cattle should have been four times as much 50 years ago as it is now. Complaints

of delay, extortion and overcharge were very numerous, and the farmers and burkundazes appear to have done pretty much as they liked.\* The farmers of the present day are not much improvement of their predecessors.

#### *Post Office and Telegraphs.*

The earliest notice Mr. Toynbee could find of the postal arrangements of the district, is in 1819, when the Magistrate reports that the provisions of Section 10, Regulation XX. of 1817, the parent of the present Zemindary Dāk Act and system, were not required in Hooghly, "as there is a sufficient number of paiks." The carriage of letters between Collectors, Commercial, Residents, Excise and Salt Officers and Munsifs was specially provided for in various Regulations between 1793 and 1817. In 1818 a project was set on foot for an experimental Semaphore telegraph\* system between Calcutta and Chunar, with an extension thence to Benares. The Collector was ordered to acquire land for the sites of the towers and for making bricks, and the Magistrate to give the help of the police in procuring supplies, &c. Mr. Toynbee mentions that he was never able to discover the real object of the building of these towers until he came on the old correspondence regarding them.

#### *Prices and Wages.*

From 1793 to 1813, the average prices per maund of the following grains were as follows:—rice, Rs. 1-5-6, dāl Re. 0-15-6, gram Re. 0-14-6, wheat Re. 0-13-9, and mustard seed Re. 1-15-3.\* In 1809 the prisoners in the jail could feed themselves on an allowance of 2 pun and 10 gundas of cowries daily, and the diet-money allowed by the Courts to "indigent prosecutors and witnesses" was only one anna. The origin of the *nirikk-nāma*, or fixed price-list, the tradition of which still survives, was probably the order of the Governor-General in Council in April 1812, that a table of the prices of the principal articles of supply should be kept at each thana. This order was issued in consequence of the numerous complaints, both on the side of the troops and of the Zemindars, regarding the arrangements for the supply of *rasad*\* to the former.

In 1832 a boat of 200 maunds could be hired for Rs. 27 per mensem; of 1,000 maunds for Rs. 94. A *pansi* or row-boat for the trip from Chinsurah to Calcutta could be hired for 8 annas, 12 annas, or a rupee, according as the boat had two three, or four oars. The price of bamboos was Rs. 12-8 a

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\* Supplies of provisions, straw, &c.

maund ; of rope Rs. 5 per maund ; of *durma* mats, Re. 1 per score ; of thatching straw Rs. 8 per *Kahan* : coolies earned from  $1\frac{1}{2}$  to 2 annas per day.

### *Manufactures and Industries.*

During the period reviewed in Mr. Toynbee's book, the principal industries and manufactures of the district were either carried on under direct European management and supervision, or with advances made by European capital. The existence of the Company's factories and residence from the middle of the seventeenth to the first decade of the 19th century, effectually put a stop to all private enterprise and to the employment of European capital, except in indigo. In their character as traders, the East India Company and their officers were naturally jealous of all "interlopers," as they called non-official Europeans, and none could settle in the Mofussil without the special permission of the Governor-General. The principal industry to which Europeans first directed their attention was indigo, and after it to sugar and rum, chintz and canvas. In 1810 Sir William Jones founded a canvas manufactory in Howrah.

The indigo industry appears to have been introduced into the Hooghly district as early as 1780. In 1795, Regulation XXIII. of that year was passed to regulate the relations between indigo-planters, the Government and the ryots. The law was amended by Regulation VI. of 1823, and again by Act X. of 1836. Complaints used to be made to the Magistrate of "new European adventurers" cultivating indigo. The "intruding manœuvres" of these men are spoken of as being carried on "under the cloak of the Bengalees." This appears to mean that, as no European could hold land or reside in any district without the express permission of the Governor-General, these intruders had obtained lands *benamée* from certain native landholders. Interference of this kind with one another's factories and lands led to so many disputes and disorders, that the Government early in 1800 passed a rule to the effect, that no European should establish a new indigo factory in the neighbourhood of an old existing one. It remained in force till 1830, when it was rescinded, and all other restrictions not imposed or recognised by the Regulations appear also to have been removed. Indigo riots of a serious nature appear to have been few and far between, but mention is made of the hostility of the Bengalees to the industry. What is called "poaching" on another planter's "*dihat*" is now forbidden in Behar, among those who recognize the rules of the Association.

The district of Hooghly was widely celebrated for its paper manufactories. Serampore gave its name to a kind of paper

much used even at the present day, and some of the descendants of the original paper-makers still survive and follow the trade.

In 1824 certain rules were passed by Government for granting lands to Europeans for the experimental cultivation of coffee, and in 1826 Mr. Gordon and Dr. Wallich appear to have started a plantation, but Mr. Toynbee cannot say where it was or what became of it. In 1835 Chinsurah could boast of a cigar manufactory.

### *Roads and Communications.*

At the time of the assumption of the Dewani in 1765, the district of Hooghly had not a road worthy of the name. "It is true," says Mr. Toynbee, "that there were tracks, which were dignified by the name of roads, but they were, as a rule, strips of land set aside at the various settlements for the purpose of public traffic. Metalling and raising were unknown, and where there was a bridge, it was due rather to the generosity and public spirit of some wealthy individual than to the Government of our predecessors." These remarks may apply to Hooghly, but they certainly cannot be applied to some other districts, *e. g.*, Orissa, Maldah, Rajshahye, in which the Moghuls had firmly established themselves, and where the remains of their excellent roads and embankments are visible to the present day.

In 1796 the Court of Circuit called the attention of the Governor-General to the wretched state of the communications by land, and to the serious encroachments made by zemindars and cultivators on the tracks set apart as roads. Mr. Toynbee remarks: "Had this evil been guarded against, and existing tracks properly demarcated at the time of this complaint, I have no doubt that the present state of the roads would be very much better than it is, and that there would be many more than there are at the present day. Hundreds and thousands of beegahs of road-lands must have disappeared since the above letter was written, and the evil still exists, and requires constant watchfulness and a strong hand to check it." This is very true. The spirit of encroachment on Government roads and lands, both in towns and in the Mofussil, is rampant. People have interested private parties to the back of them, and on either side of them, and not being able to encroach in those directions, they are constantly trying to sneak forward, inch by inch, and steal Government land. A special Sub-Deputy Collector was recently ordered to demarcate the Grand Trunk Road, and the result of his labours was that *nearly 800 bigahs of land* were recovered on either side of the 52 miles of the Grand Trunk Road which lie within the Hooghly

district. This hunger for Sirkari earth seems to prevail everywhere, and grabbing of Government land is constantly going on. Irish land-grabbing is nothing to it. A man encroaches on a Government road, and as there is no one to guard and look after Government interests, his theft is not at once discovered. If it is discovered, and he is compelled to go back, he perhaps adds insult to injury by claiming compensation for the ill-gotten strip he has been compelled to disgorge!

In 1829, the Rajah of Burdwan gave Rs. 36,000 for the construction of a bridge on the Grand Trunk Road; and it is curious to read that, in consideration of his princely gift, he was allowed to have "badges for his peons. It is evident, then, that the peons of zemindars and non-officials were not at the time allowed to wear badges, and their doing so, even at the present day, might in the Mofussil, in many instances, bring them within the provisions of Section 171 of the Indian Penal Code.\* In 1830, road-labour for convicts was beginning to fall under the disapproval of Government, and we find the Magistrate reporting that intra-mural labour would have a disastrous effect on the criminal classes, whose detection and conviction would be "rewarded by a seven or fourteen years' exemption from toil and hardship, and by transfer from a hovel to a palace." Truly there were Dracos in those days!

### *Municipal Affairs.*

The germ of Municipal Government is contained in Regulation XIII. of 1813, under the provisions of which the inhabitants of towns were enabled to make better provision for watch and ward and for the protection of their property. The above law was introduced into the town of Hooghly, which the Magistrate calls "a small straggling town," early in June 1814. Defects having come to light in the working of this Regulation, it was amended by Regulation XXII. of 1816, and this law contains the first provision for conservancy, lighting and other Municipal improvements.

In 1823 the funds derived from the levy of town-duties under Regulation X. of 1810 were granted for the improvement of towns, and the Governor-General in Council directed that they

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\* Sec. 171 is as follows:—"Whoever, not belonging to a certain class of public servants, wears any garb, or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or *with the knowledge that it is likely to be believed* that he belongs to that class of public servants, shall be punished with imprisonment of either description which may extend to three months, or with fine which may extend to two hundred rupees, or with both." Ignorant villagers in the Mofussil are unable to distinguish between one badge (*chaprás*), and another. "Chaprassie," is a man who wears a "*chaprás*" or Sirkari badge.

should be expended in "filling up hollows, stagnant pools, and useless ditches, in the construction of *pucka* drains and bridges, the opening-up and widening of the public roads, and in other minor improvements." It is significant that 66 years later, "hollows, stagnant pools and useless ditches" should be the principal defects in many Bengal Municipalities besides Hooghly.

Little more is heard of Municipal affairs until 1837, when by Regulation XV. of that year, the maximum chokidari assessment under Regulation XXII. of 1816 was raised to Rs. 2, and the principle of applying the surplus collections to improvements in the towns was expanded and re-affirmed. Two fire-engines were purchased from Calcutta in this year. In 1842 an Act was passed "to make better provision for purposes connected with the public health and convenience." This was the first purely Municipal law in Bengal. This Act could be introduced into any town at the request of two-thirds of the inhabitants. They were to choose their representatives as a committee, and a rate could be imposed on houses not exceeding 5 per cent. on their value. Mr. Toynbee does not tell us the result of this measure, as it had not got into proper working order within the period reviewed by him.

#### *Miscellaneous.*

An account is given of a cyclone in 1832, and a storm of "incredible violence", on the 21st May 1833. The Superintendent of embankments, writing from Tumlook three days after this storm, thus describes its effects:—"The Rupnarain and Damoodar rose *eight feet* above the ordinary level of the spring tides, and almost every embankment in the Hooghly Collectorate is swept away. . . . The country presents such a scene of ruin and distress that I cannot adequately describe it." Nearly a year afterwards the Salt Superintendent writes:—"There are evident signs of great distress, and want of usual extent of cultivation owing to the salt water. Sick-ness prevails to a great extent, and many have been entirely ruined." Again: "Since the occurrence of that visitation, the sickness prevailing there has been most awful; so much so, that for several months the civil and criminal business of the division was nearly at a stop. Peons could not be induced to proceed there for execution of writs. Those who did, usually returned emaciated and with impaired constitutions." A serious drought occurred in 1837, when tanks and wheels ran completely dry, and the price of food-grains rose 50 per cent. in spite of importations.

As an index of increase of work, Mr. Toynbee notes that the consumption of stationery in the Collector's office was 23

reams in 1887 against an average of 7 reams during the years 1827 to 1841. As late as 1834 the Collector used to do Judicial and Revenue work at one and the same time, the depositions of witnesses being taken down by Mohurirs.

In the year 1836, Persian ceased to be the official language of the Courts, and Bengali took its place. In reporting on the proposal, the Collector spoke of the change as "one of the greatest blessings we could confer on this country." Zemindars paying Government revenue of Rs. 8,000 or upwards were to be addressed in English as "gratifying" to them, "while their being required to reply in English will bring that language more into use and afford greater encouragement to its acquirement as well as employment to those who have already studied it with success." India in 1889 is a grim comment on this sentence, as the knowledge of English is not a sure road to employment, and no encouragement is required for its study. As regards the adoption of the Bengali character, the Magistrate reports in 1837 that "the feelings of consideration for the people are duly appreciated by the great mass of the people, to whom it has given a very general satisfaction." Slavery seems to have been prevalent till about 1836. Regulation X. of 1811 prohibited the sale of slaves imported into British society, but it was held not to apply to cases of famine orphans and the like in British India. From a report made by the Magistrate in 1836, it would appear that such slavery as then existed in the Hooghly district was "entirely of a domestic character, and rarely brought to the notice of the authorities." It occurred only among the Musulmans, and "female slaves and young boy-slaves are to be found in the families of most Musulmans of any respectability."

The amount of official interference in social and domestic life seems to have been a good deal more than at the present day. In 1828 we find the Magistrate sentencing to one month's imprisonment each, the baker, his assistant and the *soojeewallah* (flour-seller) for selling bad bread and flour. In 1845, a Hindu Deputy Magistrate writes to the Magistrate 'with great pain, and asks him to interfere to prevent the shameful practice, and 'remove the disgraceful nuisance' of the 'most indecent bas-relief figures of wood than which badness cannot conceive worst,' on the Jagannath cars in various parts of the district. The Commissioners who framed the Indian Penal Code were given to understand that any interference in this matter would be regarded as interference with the Hindu religion, and so we find an exception tacked on to Section 292 of the Penal Code (dealing with sale or exhibition of obscene books, paintings, &c.) which saves "any representation, sculptured, engraved, painted or otherwise represented on or in any temple, or on any

car used for the conveyance of idols, or kept or used for any religious purpose." This exception was framed nearly half a century ago. Public opinion at the present day would probably approve its repeal.

The rules on the subject of rewards for killing wild animals, issued in 1816, must, remarks Mr Toynbee, have caused some olfactory annoyance to the Collector and his *amla*. The claws and teeth of tigers, for whose destruction rewards had been paid, were kept in a box in the Collector's office. A local inquiry had to be made, and the result recorded before any reward was paid. The heads were destroyed in the Collector's presence, and the production of 'false heads' was to be strictly guarded against and punished. In 1822 the skins of leopards, tigers and buffaloes, for which rewards had been paid, were sent to Calcutta to be made into mail-bags for the Postal Department. Judging from the amount (Rs. 38,483) paid as rewards for the destruction of 5,673 animals in Bengal in the two years 1822-23 and 1823-24, there were some grounds for taking precautions against fraud.

The period reviewed by Mr. Toynbee ended some forty-five years ago, and on comparing the sketch with the administration of to-day, we may well exclaim, "Look on this picture, and on this!" There are materials in the two pictures for a new Tamil or Bengali catechism, the truth of which might go far to counteract some of the poison contained in Mr Hume's pamphlet. We feel sure that such a catechism (full of stern irrefragable facts and devoid of cowardly misrepresentation) will soon be forthcoming from the pen of some native writer, to give the lie to those who affirm that Bengali loyalty is not deed-loyalty but merely lip-loyalty.

H. A. D. PHILLIPS,



## THE SACRIFICE OF RÁTH.

[A TALE OF PACHMARHI.]

There was sorrow in the valley,  
Where the blue Nerbudda flows,  
Death and anguish—yet the people's  
Cry for mercy vainly rose.

For it seemed the will of heaven  
That a famine curse the land,  
And a plague before whose terror  
Not the strongest man might stand.

So, awhile they suffered weeping

• Till the sons of Agor cried :

“ Let us hasten to the mountain,

“ Where the holy hermit died.

“ Where the sages five are dwelling,

“ Each within his sacred cave ;

“ Let us ask the holy prophets,

“ How the land from death to save.”

Ráth and Heera, sons of Agor

Ruled by wisdom and strong arm,

Nought the brothers hearts could sever,

Nought their trustful love might harm.

So the men and women journeyed

To the sacred mountain high,

And beside her father blithely

Stepped Alita fair and shy.

Both the brave young brothers loved her,

For no veil yet cursed the land,

And the youth might ask the maiden

Whom he loved to give her hand.

Sweet Alita both the brothers

Loved, but in the maiden's sight

• Ráth was like a brother, Heera

Stood in love's sweet golden light.

Râth perceived the maiden's secret  
 Ere she knew it, but his grief  
 Struggling fiercely, in unselfish  
 Love for Heera found relief.

Came the people to Pachmarhi,  
 Where they found the hermits wise,  
 Rapt in death-like trance beholding,  
 Dimly far-off mysteries.

Silently they heard the voices  
 Telling of the people's woe,  
 And their forms were fixed and rigid  
 As the rocks of Mahadeo.

Long the people stood expectant,  
 Till at length the oldest sage,  
 Gaunt and dried and deeply wrinkled  
 Through long fast and mystic age,

Rose and cried "the Gods are angry"  
 "For the people is profane,  
 "Sacrifice has been forgotten  
 "So they weep and call in vain.

"Man for man must die, descending  
 "Headlong from the awful height  
 "Above the gulf of Andikho,  
 "Down to black and endless night."

Pale then grew the harmless people,  
 Thinking of the dreadful leap;  
 But they drew the lot in silence  
 For the victim of the deep.

On the noble sons of Agor  
 Fell the lot, then all men stood  
 Wondering sore which of the brothers  
 Twain should perish for their good.

Heera draws the fatal pebble,  
 Râth is saved, his glances fly  
 Swiftly to the fair Alita,  
 Oh! the horror in her eye!

There he reads that if he perish  
 She will be a little sad,  
 But if Heera die, the maiden's  
 Heart will never more be glad.

Falls the night mid dance and music,  
 But a sad voice fills the cave ;  
 " Holy sages, might a brother  
 Die, his brother's life to save ? "

Answering comes a hollow echo :

" It is whispered from the grave

" That a brother freely dying

" Has unmeasured power to save ;

" 'Tis a mystery of the ages,

" Life from out of death will rise ;

" Light and sweetness spring from sorrow,

" When a good man freely dies " . . .

O'er the blue plain, stretched like billows

Of the ocean far away,

Redly rose the sun next morning

As the folk at break of day.

Gathered round the awful chasm,

Where a man should die ere night,

Bravely for the sinful people,

Leaping from the fearful height.

Heera, Râth, and fair Alita

On the cliff-edge hand in hand

Gaze on the expectant people,

Nigh the dreamy sages stand.

They wait a sign ; dark clouds from heaven

Hide the lion of Dhup Ghur,

And a mighty peal of thunder

Rolls down Mahadeo's spar.

Then the oldest sage awaking

Cries aloud : " Oh, people hear,

" God is calling from the heaven,

" He to us draws very near :

" He is pleased that one is willing

" Out of purest love to die,

" So upon your land he sendeth

" Blessed rain-clouds from on high

" Let the sacrifice be finished."—

Bravely Heera turns to greet

For the last time fair Alita,

And his tears fall at her feet.

Oh! the bitterness of parting !  
Oh ! the awful gulf below,  
The sheer upbroken precipice,  
The unknown depth of Andikho !

Sadly Râth for one short moment  
Looks upon them, then he cries :  
" Live and love, for life is pleasant,  
Willingly your brother dies, . .

" Dearest Heera and Alita,  
" And you folk who love me well ;"  
Thus he spoke, then leaping wildly  
Down the awful steep he fell.

Swiftly grew the sky o'crshadowed,  
Fell the rain, the wind grew cold ;  
Livid lightning struck the mountain,  
Loud the awful thunder rolled.

Straight the people hurried homeward,  
Stricken with supernal dread ;  
Only Heera and Alita  
Stayed to mourn the noble dead.

And beside them stood like statues,  
Carved from out the rocky hill,  
The five sages deeply musing  
On the mystery of ill.

Little light had they, and cruel  
Was their creed ; but from above  
Shone a gleam of truth lit for them  
By Râth's sacrifice of love.

Centuries have passed, and changes  
Come upon the Eastern lands,  
But of all the warring forces,  
Sacrifice still mightiest stands.

W. L. G.

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# THE QUARTER.

## THE WEST.

### *Foreign Politics and Events.*

PROFESSOR Geffken has been released, and his prosecution abandoned. The facts in connection with this matter, and an article in a leading London Review, have somewhat smirched the fair name of Prince Bismarck. The semi-official Berlin "Post" has withdrawn the accusation that Sir Robert Morier informed Marshal Bazaine of the Prussians crossing the Moselle.

As to the prospects of war or peace, we have it from the king of Italy and the Hungarian Premier, that the present year will be one of peace. But this is not very great authority. The triumph of Boulangism and the defeat of M. Floquet on the Revision of the Constitution scheme are somewhat indicative of war. The people of Paris, however, are determined to have their Exhibition, so that peace is assured for some time at least. Armaments are still increasing. An Imperial ukase has been issued by the Emperor of Russia introducing certain reforms into the Rifle and Infantry Reserve Battalions, which involve an increase to the army of 80,000 men. Lord George Hamilton has announced in the House of Commons that Government propose to build seventy ships, comprising ten ironclads, 42 cruisers, and 18 gunboats, to be completed in 1894, and to cost, including armaments, 21½ millions sterling. Lord Wolseley, speaking of the threatening war-cloud, has advocated compulsory military service. In making this recommendation, he has egregiously missed the scope of the British bent and genius. Mr Morley has categorically said that we must have absolute supremacy at sea, quoting Mr. Cobden's remark that he was willing to spend 100 millions on the fleet, if necessary. The rats are certainly abandoning the sinking ship of the Scuttle and Peace-at-any-price School, and making for the firm land of Imperialism.

In France, Boulangism still occupies the thoughts of the people to the exclusion of almost every other topic. The majority of 81,550 votes seems to be proof positive that France is eager for a change. On Boulanger making it evident that he was

an exceptionally strong man, all the discontented elements in the country have gravitated towards him. There can be no doubt that the Radicals have made themselves very unpopular; they have been a tyrannical clique everywhere, and by their bigoted hatred of the clergy and their passion for secularism, they have offended the interests and feelings of the people. Moreover, Mr. Jacques was not a very formidable candidate to contend against.

Austria still holds together in spite of her centrifugal forces; but, in avoiding the Charybdis of Magyar predominance, it seems likely that she may strike on the Scylla of Slavdom. In Italy, Mr. Crispi has resigned the Premiership in order to avoid being defeated over the proposed new taxes which are necessitated by the budget deficit of 200 million francs. The high expenditure on the army and navy has caused much poverty, and there have been labour strikes. A feeling is growing that war would be preferable to the existing state of things. The hostility between France and Italy is increasing.

In Russia Count Tolstoi has proposed certain measures which will put an end to what little local Government there is.

The Sackville affair has died a natural death. It appears from published papers that Lord Salisbury declined to discuss Lord Sackville's offence after the action taken by the United States Government, which his Lordship said was contrary to international usage. Lord Sackville has been succeeded by Sir Julian Pauncefote, Permanent Under Secretary at the Foreign Office. America is pursuing the policy of protection with a vengeance. The Immigration Committee has submitted a sweeping Bill restricting the immigration of foreigners, and prohibiting absolutely the entrance of insanes, paupers, felons, polygamists, anarchists, socialists, lepers, &c., and proposing a tax of five dollars on every foreigner not so excluded. The American Senate has rejected the Extradition Treaty with England.

Egypt is in much the same state. The Queen's speech at the opening of Parliament says there is no ground for apprehending any renewal of the troubles near Suakim.

There is to be a Conference for the settlement of the difficulty which has arisen out of the German outrage at Samoa. America insists on Samoan autonomy. The so-called religious mission of Achinoff and a number of Cossacks to Abyssinia has ended in a fiasco. The French bombarded the settlement at Sagallo, and took Achinoff and his Cossacks to Obok. They have since been handed over to a Russian corvette. The Russian Government has disclaimed any connection with the mission.

Other important events of the quarter are the Arab rising in Uganda: the riots in China: the destructive tornado in the United States: the massacre of German missionaries, and the fighting between German troops and Arabs on the east coast of Africa: the abdication of King Milan of Serbia: the suicide of the Crown Prince Rudolf of Austria-Hungary, and the Turin beauty show. The "injuries" offered to the "spræta forma" of the unsuccessful competitors at Turin resulted in a sort of fight.

### *Home Politics and Events.*

The Parnell Commission continues to be the most absorbing and sensational event. The principal witnesses have been Major Tanner, Jago, the convict Delaney and Major Le Caron. Delaney says he took an oath, the principal part of which was to assassinate the executive council in Dublin. The evidence of Major Le Caron has been of a nature to take one's breath away, and it has so driven the nail home, that the Pigot fiasco has had no effect on the broad main question. What the Attorney-General has maintained from the commencement is, not that Mr. Parnell and his supporters had actually planned the murders, but that they were intimately allied with the Irish Republican Brotherhood, availed themselves of the money and services of the Brotherhood, and knew its character. It seems that this extraordinary man Le Caron has been for 23 years the most daring of the innermost ring of the secret inner circle of Irish revolutionists, the confidant not only of Egan, Boyton, and Sheridan, but of Mr. O'Kelly and Mr. Parnell, and at the same time the trusted spy and informer of the oppressive Sassenach Government. The revolutionists admit that the Major occupied a position of great influence and importance in the councils of the Irish and American Dynamite and Assassination Associations. But Tynan, "No. 1" declares that "though the Major may have pierced the crust of the Irish national movement, he never touched the core!" "If the outer crust was outrage, dynamite and murder, then what must the core be?" It must be some unheard of crime, *non inter Christianos nominandum!* It has been shown that the United Brotherhood has its agents in Australia, India, Canada, Afghanistan and Africa: that there was a plot of the Invincibles to murder Earl Spencer and Mr. Foster: that Byrne and other members of the Land League were connected with the Invincibles: that Egan paid the expenses of the Dutch officers out to the Transvaal to help the Boers against the English: and much more of an equally damning character, for which a good many persons ought to hang. The Nationalist Press of Ireland and America are naturally utterly dumbfounded at the disclosures. It has been shown that the

virtuous Mr. Sexton assisted Brennan to escape on seeing the placard in the strand that Carey had given evidence implicating the latter. Added to all this, further details have been given of systematic outrages: in fact the *sæpe cadendo* tactics adopted by the Attorney-General and Sir Henry James have worn away the rock of unbelief. No one now ventures to maintain that there has been no complicity in outrages among the Irish Parliamentary party. Le Caron's cool and crushing evidence has established the diabolical criminality of the Clann-Gael conspiracy, and the connection of the Parnellite Parliamentary party with that conspiracy. It is to be hoped that the Commission may now be quickly brought to a close.

It has been proposed that the next electoral Reform Bill should effect a considerable reduction in the Parliamentary representation of Ireland: but this will be superfluous, if honourable members go on getting "quadded" at the present rate. Messrs. Sheehy, Condon, Kilbride, Finucane, Edward Harrington, and the Reverend Father Stephens have been sentenced to various terms of imprisonment. Father McFadden and five others have been charged with the murder of Inspector Martin, who was killed while arresting the reverend gentleman at Greedore.

\*Martyrdom à la O'Brien bids fair to become a synonym for Sybantism. The martyr managed to escape during his trial and was captured at Manchester. It really makes one's blood boil to read of the indignities put on this Irish *Sansculotte*. The "breeches" grievance must now hide its diminished head in the presence of the "second-class" grievance! One can hardly credit that this man, who had never travelled in anything but a third-class carriage, was actually forced into a second-class carriage by his inhuman captors! We shall hear of the prison authorities next compelling him to live on a diet of *pâté de foie gras* and champagne! This revolting cruelty in the matter of the second-class carriage is but one more instance of "brutal Balfourism."

As regards the state of Ireland, Mr. Balfour was able to show at the Liberal Unionist banquet in Dublin, that "derelict" farms are everywhere being taken up, that boycotting is decreasing, savings-banks deposits enormously increasing, and trade improving.

As regards Home Rule, Mr. Chamberlain has expressed his opinion that the question of local Government is secondary to social, economical, and agrarian questions; that if the land question be settled, probably little will be heard of the Home Rule question. He has also stated that the sole difference between the Gladstonians and the Unionists is, that the former



base Home Rule on the principle of nationality, whereas the Unionists are ready to concede Local Self-Government to its fullest extent. Referring to the Separatists, Mr. Chamberlain pointed out that it was not the policy of Home Rule that we had to resist, but the policy of universal disintegration: the Separatists seemed inclined to apply this policy to India, and if they succeeded, the peace of 250 millions of our fellow-subjects would in a few years give way to anarchy or a Moghul Empire, and a Gospel of Plunder preached by Maharatta Chieftains. Talking of India, the Gladstonian caucus have feasted Mr. Nowroji, and are endeavouring to atone to him for having thrown over his candidature by calling prominent attention to the fact that Lord Salisbury has called him a "black man." Sir Lepel Griffin has written a letter to the *Times*, shewing that Mr. Nowroji has no more claim to represent the people of India than a Polish Jew settled in White-chapel. This "black man" bone has been worried and worried by the Radicals until there is not a scrap of flesh on it. But god-send as this "black man" episode has been to the Radical press, it is thrown into the shade by the tremendous slice of luck which has fallen to the Conservatives in the shape of the "Hawarden evictions." This is indeed a fat capon which will doubtless give food to the Conservative press for some time to come. The Bengal *murgli* of the "black man" is a Barmecide feast beside it. The fact is, it is all party, party, party. Happily there are some signs, in France as well as England that Demos is becoming sick of this eternal party warfare, and, like Diogenes, is looking out for an honest man to manage his affairs properly. Natives of India will no doubt regard Mr. Gladstone as a ruthless monster, when they hear that the tenants evicted by him have—they and their ancestors—been on the land for over 200 years. Mr. William Gladstone has written to the papers to say that the rent was much in arrears, and that there has been no unnecessary harshness or severity! But it is not alleged that abatement of the arrears was offered, and this was the sin which was laid at the doors of Lord Clanricarde and others. We may well quote the words of Mr. Tyndall: "Science, let us hope, has taught her sons in Britain a nobler lesson than the prostration of their judgment before a leader, with whose mental and moral organization the stern veracities have never mingled."

The elections for the London County Council have been fought on party lines. There was an understanding that this was not to be done, and on one side the honourable understanding was honourably carried out. An area, represented in the Imperial Parliament by 49 Conservatives and 13 Liberals, allows two-thirds of the places in its County Council to be

occupied by advanced Radicals. It is to be hoped that the new body will not cut-Herod the moribund Board of Works.

### Miscellaneous.

There has been an important prosecution in Manchester under the Merchandise Marks Act. As it was the first prosecution of the kind, only nominal fines were inflicted. The object of both the Indian and English Acts is not only to protect the consumer, but to protect honest traders and manufacturers from the results of unscrupulous and dishonest competition.

Jenkins, the murderer of Emily Joy at Guildford, has been found guilty and sentenced to death. There have been two other shocking murders and mutilations, one of a boy at Bradford, and the other of a girl at Yeovil; but the murder epidemic seems to be working itself out.

Mr. Parnell has instituted an action in the Irish Courts, as his Scotch action has been dismissed. The Judges have very rightly refused to be parties to a *r ngeuvre*, by which an Irishman seeks to sue an Englishman in a Scotch Court, on the ground that he will not get justice from an English jury.

That venerable Prelate, the Bishop of Lincoln, is being prosecuted before the Archbishop of Canterbury for ritualistic practices.

*Leviara canamus.* Mr. Izard has got a divorce from his wife, Marie Tempest ("Dorothy") with £5,000 damages against Mr. Leslie. Mr. Izard stated he had allowed his wife to go to Boulogne with Mr. Leslie and another gentleman, and he thought there was nothing wrong in it. What is more, the jury believed him! This is but one more nail in the coffin of trial by jury. In matters dramatic, mention must be made of "Macbeth" and "the Babes in the Wood," which has, of course, like each of its predecessors, eclipsed all the former pantomimes of Augustus Druriolanus. It is said that the ballets of birds, toys, packs of cards, dominoes, &c., were the best ever put on the stage. "Macbeth" has been described as a series of studies in *chiaro-oscuro*. Regarded simply as the stage-illustration and realization of a semi-supernatural poetic tragedy, it is a superb success. The scenic and mechanical devices combined with the weird strains of Sir Arthur Sullivan's music, are sufficient in themselves to "hold" the audience; but it may be doubted whether Mr. Irving and Ellen Terry have converted the public to the acceptance of their conception of the Shakespearian characters. "Dorothy" flows on for ever; but she has been transferred to the Lyric in more senses than one.

Among the books of the quarter may be mentioned "Gordon" in Macmillan's Men of Action series: "The Truth about Russia"

by W. T. Stead : " Reports of State Trials," New Series, vol. I., 1820-23, edited by J. Macdonell : " India " by Sir J. Strachey : and " The Recluse " by Wm. Wordsworth. The " Recluse " is the first part of the poem, of which the " Excursion " forms the second part. It seems that Wordsworth did not think it worth publication.

## INDIA AND THE EAST.

### *External events.*

The Maharajah Dhuleep Singh has developed unmistakable signs of insanity—at least, that is the most charitable way of accounting for the extraordinary proclamation which he has issued in Paris. He must be a veritable pachyderm not to see the intense comicality of the whole business. If there is any knowledge of Western events among the educated natives of the Punjab, they must know, as well as Englishmen, that the Maharajah tried to make a bargain in the coin of the realm with the English Government, but the latter thought he was overrating his own importance, and putting too high a price on himself. Honour and noble-mindedness recoil at this pitiful exhibition of foiled avarice ; and even the most poetic and sympathetic souls among the Punjab Sikhs must feel a cold shiver at this ignoble display by the prosaic patriot of pounds, shillings and pence !

It is said that Amir Abdur Rahman has collected 20,000 men on the Russo-Afghan frontier for the pursuit of Ishak Khan, and that he has invited the Amir of Bokhara to co-operate with him against Russia. There can be no doubt that the Mahomedans of Bokhara are chafing at the spread of Cossack predominance, and would dearly love to stem the tide of Russian aggression. But quite apart from any provocation, Russia is always on the look-out to seize any pretext for a *coup*, and General Komaroff has come to Chardjui. At the same time there seems to be no reason why Russia should not give a shelter to Ishak Khan, when England affords an asylum to Russian nihilists and the dynamo-political scum of European capitals.

In Burmah, the British troops are warring down the hostile frontier tribes, and our arms have been attended with almost unbroken success. The defeat of the Lepci Kachyens, and the capture of Thama, should induce other tribes to submit. In spite of occasional casualties, such as the lamentable death of Mr. Perreau, District Superintendent of Police, who was shot dead in his bungalow, the British troops move steadily forwards, and British pluck and determination are not to be denied. Several Burmans were rewarded for faithful and

loyal services at the grand Durbar held at Rangoon on the 1st of January, and the people are everywhere recognizing, that even the most reckless dacoits are powerless to stop the advancing forces of civilisation. The railway to Mandalay has been opened with much *éclat*, and the great progress made since the annexation is manifest, as pointed out by Sir Charles Crosthwaite, from the fact that the revenue has advanced from 22 lakhs to 67 lakhs in the third year of occupation.

The objects of the Naga expedition have been successfully achieved, and the expedition has returned. The Lushai expedition has so far met with success. Where civilization comes into contact with the savage barbarian, the former must yield sooner or later to that *inductibile fatum*, which is almost a law of nature—the necessity for a forward advance. The Indian and Bengal Government had hitherto refrained from reprisals, in spite of the murder of a British officer and unoffending villagers; but its hand has again been forced by a series of murderous raids marked by the most shocking cruelties. The Howlongs and Mallampuyias have submitted, and preparations are being made for a final advance. The only fear is that the expedition may prove abortive owing to the early setting-in of the rains, and that it may have to be undertaken afresh next cold season.

• The deadlock in Sikkim continues. In our last "Quarter" we compared the Amban to the Great Roman General, Quintus Fabius Maximus, the Cunctator; but it seems to be the Lamas who are trying the cunctatory policy or waiting game. Chinese interests coincide with ours, even though the Heathen Chinese may be keeping an eye on the main chance. It is difficult to suppose that the Peking Government will any longer brook being defied by the Lamas. The Government of India naturally refuse to recognize the claims of the Tibetan Lamas to suzerainty over Sikkim, and in their refusal they are supported by existing treaties. The aspirations of a people "struggling to be free"—or, at any rate, the interests of a people struggling for free trade with India—must not be sacrificed to the *non licets* of a proud and bigoted oligarchy of priests.

We trust some question will, in the interests of the taxpayer, be asked in Parliament regarding the extravagant grant of "batta" allowances to junior officers serving in Sikkim; we have heard it said that some have been enabled to pay off at least ten per cent. of the cost incurred by them on the purchase of warm clothing for the campaign. If this sort of thing goes on, the British taxpayer will be "wanting to know."

The "English of the North Pacific" are getting on. The Mikado has issued a proclamation granting a constitution to the

Japanese Empire, and also religious liberty, freedom of speech, and the right of public meeting. The natives of India enjoy the last three privileges in a greater degree than many European nations; but the only constitution they have is very much saturated with malaria.

There is great distress from famine in China in the Yangtze and Yellow River valleys, and millions are said to be starving.

• • • *Internal events.*

The "Congress" can hardly any longer be called a burning question: so mercilessly has the cold water *douche* been applied to it from very different directions, including Sir John Strachey in England, and Sir Madhava Rao in India. There has never appeared any more scathing and shame-inspiring criticism of British rule in India than that contained in the statement made by Sir Madhava Rao, in a remarkable letter written to a Bombay paper, that *now-a-days genuine loyalty has to be disguised more or less*—chiefly more, we might add. "The Government of India," says this able statesman, "looks on with the apathy and helplessness which are the natural instincts of the English rulers, dried to death by the tropical heat of India. They were more alive when the Empire was young." This is indeed a terrible indictment, if true, that those who are really loyal to English rule have to dissemble and disguise such loyalty in order to avoid being tabooed in their own *Samāj* (society.) It is said that Mr. A. O. Hume has been in Calcutta interviewing leading Pleaders from the sudder stations of Mofussil districts. Subscriptions are to be raised to start an agency in London for the agitation of Congress views in the English press. We trust Mr. Hume will not advocate the putting of the keys in the locks.

The temperance advocate has been on the stump, and though Mr. Caine has been convicted of some inaccuracies, we are among those who think that his mission will do good. Already there is a marked tendency to subordinate fiscal considerations to those of temperance, and Lord Cross, in the House of Lords, has bluntly stated that the excise policy is to regard the repression of drinking and of the use of opium (why did he omit ganja?) as the first object, the raising of the revenue being purely a secondary consideration. Drinking in the tropics must be far more harmful than in a cold country, and as Lord Connemara has pointed out, intemperance in drinking is the exception in Hindu and Mahomedan lands, though we would not go so far as to say it is the rule in Christian countries. The great difficulty which besets the question in the East—and this difficulty is either not known to, or not considered by

temperance agitators—is that, speaking broadly, every Oriental consumes either drink or drugs. It is a case of drink *versus* drugs, and the question is, which is the more harmful. It seems to us that the consumption of drugs is likely to increase in a direct ratio to the repression of drink. Moderate consumption of opium is said to be beneficial, especially to old people: but moderate consumption of liquor is probably far less baneful than a similar indulgence in ganja.

In receiving a deputation from the Central National Mahomedan Association, the Viceroy pointed out that the share of the Mahomedans in the national wealth and in the public service of the country was less than that to which their numerical strength entitled them; and while complimenting them on their courage and strength of purpose, he trusted they would succeed by their own exertions, and without any special favour being shown to them by Government. The Mahomedans have refused to play at follow-my-leader since they have realized that the followers do not get their legitimate share of the loaves and fishes of office. The country has split into hostile camps on the Congress question, and the two articles published by us in the Independent Section are a fair sample of the views and attitude of either party. The consciousness of ignorance grows more keen with the acquisition of real knowledge, and the cause of the extreme advanced party has not been furthered by its parade of omniscience and ostentatious assumption of universal capacity. These characteristics are an unerring index of the fact—pointed out in the Vice-Chancellor's speech at the annual convocation of the Calcutta University—that western education and culture have as yet penetrated but skin-deep into the Hindu. Sir Comer Petheram's original speech is only less important than that of the late Viceroy in the preceding Quarter. The Chief Justice remarked that there had been only a superficial veneer of imported civilisation; caste remained unshaken in spite of its incompatibility with the precepts of Western culture. English education had not succeeded in promoting social progress and individual freedom; the deeper lessons of English education had not been really learned; the notion of going forth to combat great abuses was as strange and distasteful as that of adopting a profession which demanded physical exertion as one of the conditions of success. Hinduism, so far from falling to pieces in the presence of Western civilisation, was extending itself remarkably in certain directions; unity of intellectual aims was not sufficient to create political unity; there must be unrestricted crossing of castes before a nation could be produced: social reform must precede national unity. Had the Vice-Chancellor been an executive officer, even of the highest rank, we fear he and his speech would have been virulently

attacked in the native press. As it is, it has been an amusing study to watch the struggle between policy and passion, each trying to overmaster the other—passion at the blunt revelation of unwelcome truths tempered by the policy of not giving offence to the *Lât Dharmavâtâr* of an executive-ridden people.

### *Police and Law.*

The report of the Crawford Commission is still confidential; but it is more than whispered that Mr. Crawford has been acquitted of direct corruption. As to the corruption of the Bombay native Magistracy, the *Times* speaks out in no uncertain tone: "it is simply amazing that Lord Reay and his Council should have failed to perceive that pure justice cannot proceed from a corrupt source. If they still fail to perceive it, we can only say that the sooner their eyes are opened by public opinion in England, the better." This is plain speaking, and it is difficult to imagine a more perplexing dilemma than that in which Lord Reay's Government is now placed. Probably Mr. Lee Warner has gone home to explain the intricacies of the situation. Whatever happens, it is very clear that the corrupt Mamlatdars cannot go on exercising judicial powers. A great and just Government cannot break faith with its subordinate officers: neither can it abet the taking of illegal gratifications, and by keeping the men in office, it will of course do this. Here is a capital puzzle for *Vanity Fair*. Now that the facts are better known, general opinion seems to support the action of the Bombay Judges. It is truly a "beautiful case" of crimino-constitutional law, and like all "nice cases," it must cause hardship to the parties concerned. Our own opinion is that the clients must suffer: their death-agonies will at any rate evolve a *miliug* for the benefit of posterity. A prisoner in England may be convicted on a confession, even though such confession has been procured by deceit and fraud. *A fortiori*, an official may be departmentally punished, where there was no intent to deceive! Q. E. D.

During the quarter, Captain Harsey was imprisoned for one month for assaulting Mr. G. M. Chesney, Editor of the *Pioneer*.

The defamation case of *Fitch vs. Purcell* ended in a complete apology and retraction on the part of the accused. Mr. Purcell was released on his personal recognizance to re-appear within six months for sentence, and within the same period to re-imburse Mr. Fitch his law expenses. The English order to come up for judgment, if, and when called on, is no doubt a very salutary proceeding, and we have on several occasions advocated its extension to India. But as it is not the Indian law, it seems the Judge had no more power to pass such an order than a Magistrate would have. All Courts in India

are governed by the same Code of Criminal Procedure ; judgment must be followed by sentence.

The Quarter has been somewhat fruitful in *causes célèbres*. Mr. Justice Scott has awarded Rs. 30,000 to Sir Henry and Lady Morland in the suit brought by them against the G. I. P. Railway for damages for injuries sustained at the Victoria terminus, Bombay. In the "Paresnath Pig case," the Calcutta High Court has refused to confirm an injunction granted by the Deputy Commissioner of Hazaribagh to put a stop to lard-making, which the Jains regard as an obnoxious industry. This raises an important question of administrative law. The jurisdiction of the Magistrate under sec. 144 of the Code of Criminal Procedure is a bit of what is known on the Continent as *droit administratif* ; that is, it is not subject to the Civil Courts, but only to *tribunaux administratifs*, the highest such Court in India being the Local Government. If a Magistrate, acting under sec. 144 of the Code of Criminal Procedure, were to prohibit a Ram Lila procession from passing on the principal day of the Mohurram along a street inhabited principally by Moslems ; if he were to prohibit Sheahs from exhibiting a symbol offensive to the religious feelings of Soonees ; if he were to prohibit the opening of a butcher's shop in that portion of the town of Pooree, where the Pundas and Pariahs reside ; in these cases the only tribunal that could cancel his order would be the Local Government. These are extreme cases, but the principle is the same. Executive law does exist to a certain extent in India, though the fact is not generally recognized. In the present case we believe the Deputy Commissioner issued his order as a Civil Court, but we speak of what would be the effect of an order issued by him as a Magistrate under sec. 144 of the Code of Criminal Procedure. High State reasons exclude the jurisdiction of the Civil Courts.

The Patna Mission case has not yet been decided. It is a pity the Rev. Mr. Dyer used such violent language, but we must confess he had considerable provocation. A proceeding under sec. 551 of the Code of Criminal Procedure is not an elaborate civil trial : the fact that the woman was a Khettri widow should have raised grave doubts as to the validity of the second marriage, and lastly, it is difficult to see where the "unlawful purpose" comes in. Though the High Court have not yet given their decision, they have in a manner indicated their opinion that an unlawful purpose means an immoral purpose.

In the case of *Lalchand vs. The Agra Bank*, Mr. Justice Norris has given the plaintiff a decree for the value of the notes. The learned Judge's judgment is an interesting commentary on the article which appears in this issue, "The Trial of Questions of Fact in British India." The question at issue was



purely one of fact, and though the Judge probably did not fully understand the language of Sheolall, yet he speaks of his being convinced by the "truthful straightforward demeanour" of the witness. The two Bank clerks are said to have given their evidence "by rote like parrots," and the Judge remarks: "I prefer the statement of the man Sheolall to those of these two men." It will be difficult to upset this finding of fact. If the judgment stands, the Banks in Calcutta will probably have to adopt some system of giving tokens with numbers to the presenters of cheques, which numbers the latter will have to give to the clerks paying the cheques. Of course, a stranger might collude and give the correct number, but his doing so would be the strongest presumptive evidence of fraud and collusion.

The tank-filling nuisance case against the Calcutta Corporation has been committed to the High Court. We look forward with some interest to the legal development of this case. A Corporation has been criminally prosecuted in England for neglect to repair a bridge, that is, for a mere non-feasance as opposed to a misfeasance; we believe that in some States of America, where there has been misfeasance, the question of personal liability may arise.

Sir Henry Cunningham has retired from the Presidency of the Calcutta Health Society—a loss that will not easily be repaired. The Society is just beginning to reap the fruits of its determined perseverance; but no very great progress can be made until Central Sanitary Boards are appointed.

We were unable to chronicle the earthquake of the 23rd December in our last issue. One or two slight shocks were felt in the early part of January also. The seismic disturbance has recently made itself felt in England. Mr. Spencer made a successful balloon ascent and fall with a parachute in Bombay, but a similar attempt in Calcutta was a failure owing to a deficient supply of gas. Messrs. Barbour, Cunningham, Durand, Markby and Macpherson have been knighted. The skating rink has been one of the principal features of the season in Calcutta. It has been denounced as a "den of iniquity": "den" is not a bad word, but "sink" would have been better as it rhymes with rink. But joking apart, the public are anxious to know where the iniquity comes in.

The following Bills have been passed: Measures of Length; Metal Tokens; Collection of Succession Debts; and the Bill to amend the Indian Succession Act, the Probate and Administration Act, and the Court-fees Act. If the Collection of Succession Debts Act be worked properly by District Judges and Collectors, the Government should have no difficulty in repealing the Income-tax.

H. A. D. PHILLIPS.

*The 17th March 1889.*

## SUMMARY OF ANNUAL REPORTS.

*Report on the External Trade of Bengal with Nepal, Tibet, Sikkim and Bhutan. For the year 1887-88.*

**D**URING the year under report, external trade returns adhered to past year's averages, in spite of the war in Sikkim, and a damp season. A very creditable performance.

It may interest some of our readers to know that the total value of the external traffic registered for the last three years has been—

		Imports into Bengal.		
		1885-86. Rs.	1886-87 Rs.	1887-88. Rs.
From Nepal	..	93,18,431	1,02,77,226	1,12,34,228
„ Tibet and Sikkim	...	4,48,590	3,23,102	3,65,262
„ Bhutan	...	99,164	77,072	1,28,913
Total	...	98,66,185	1,06,77,400	1,17,28,403

  

		Exports from Bengal.		
		1885-86. Rs.	1886-87. Rs.	1887-88. Rs.
To Nepal	...	52,27,817	52,90,285	73,51,720
„ Tibet and Sikkim	...	3,24,355	3,92,295	2,50,834
„ Bhutan	...	1,00,787	1,54,725	1,80,677
Total	...	56,52,959	58,37,305	77,83,231

Trade in cattle continued to be "active." The increase in the exports of European piece-goods from Bengal amounted to Rs. 2,80,674 on the previous years' returns, the largest increase occurring *via* Kutkenwa, which is on the high road to Katmandoo. The import trade, under the head of *other fibres, raw*, showed a large decrease, no less than 22,665 maunds. The import trade in "villainous saltpetre" is reported as steadily falling off. The supply of linseed conformed to the statistics of 1886-87. As regards mustard seed, the supply fell off by 23,623 maunds as compared with 1886-87, but increased by 25,245 maunds as compared with the previous year.

*Twentieth Annual Report of the Sanitary Commissioner for Bengal. For the year 1887. Including brief notes on Vaccination in Bengal for the year 1887-88.*

UNLIKE the generality of statisticians, the Sanitary Commissioner for Bengal is willing to admit that the statistics, evolved from his office, represent no more than approximately correct results. As such, the following figures, with reference to births, are given :—

Towns.	Ratio per mille.	Towns.	Ratio per mille.
Jamalpure in Monghyr	... 50 2½	Rungpore	... 9 23
Pubna ...	43 29	Cutwa ...	... 9 38
Sewan ...	39 00	English Bazar	... 9 65
Brahmanbaria ..	37 62	Santipur...	... 10 47
Sitamarhi	36 24	Bussirhat	... 10 56
Comillah ..	35 61	Kamarkhally	... 10 59
Hazariabagh	35 54	Hajipur ..	... 10 77
Bettiah ..	34 56	Kotrung ..	... 10 78
Assensole ..	34 44	Utterpara	... 19 96
Sherepur	... 34 09	South Suburban	... 11 49
North Dum-Dum	33 45	Chundrakona	... 11 66
Durbandga	... 33 43	Dacca ...	... 12 22
Chattrra	31 84	Baduria ..	... 12 43
Monghyr	31 46	Madhubani	... 12 50
Kendiapara	30 96	Sirajganj	... 12 97
Beaulah	30 57	South Barrackpore	... 13 14
Rajpur	... 30 82	Burdwan	... 13 26
Jehanabad in Hughli	66	Nuhatty	... 13 65
Kusteia	1 85	Bali ...	... 14 51
Baraset ...	1 89	Purneah ..	... 14 58
Barisal	2 65	Bansbaria	... 14 64
Satkhira ..	3 20	Faridpur	... 15 10
Nasirabad	3 50	Puri ...	... 15 33
Boidobatty	... 3 96	Midnapur	... 15 37
Bogra ..	4 04	Purulia ..	... 15 90
Sudharam	4 68	Baranagor	... 16 24
Ranaghat	5 75	Chybassa	... 17 31
Debhatta	... 6 10	Rumabampur	... 18 05
Kulna ...	6 30	Cuttack ..	... 18 10
Bhuddessar	6 49	Bankura	... 18 18
Kishoreganj	6 66	Gobaidanga	... 18 52
Jajpur	6 85	Kishanagar	... 18 63
Chupra ..	7 19	Bagh ...	... 18 80
Nobodip	7 23	Damhat ...	... 19 00
Joynagor	7 54	Suburbs of Calcutta	... 19 19
Mozufferpore	8 28	Chittagong	... 19 20
Mecherpur	8 54	Tamluk	... 19 35
Jessore	8 59	South Dum-Dum	... 19 42
Taki ...	8 88	Patna ...	... 19 49
Ranchi	9 05	Jehanabad	... 19 86
Darjiling	9 15	Howrah ...	... 19 89

In other Municipalities the rates varied from 20·64 to 29·13, and in Doctor Lidderdale's opinion demonstrably defective registration has grown out of the neglect of Municipal Commissioners to do their duty; to look after the work they insisted on taking over from the police, Dr. Lidderdale believes the

death statistics of his department to be more "approximately correct" than those having to do with births with a grim sense of humour, he writes:— "The most unhealthy district in Bengal is Monghyr, but this arises from the energy of the police officer, not the nature of the climate." Further on we come across this:—

A true record is hardly to be looked for in such districts as Singbhum and Lehardugga, but such a difference as Cuttack 18 90 and Puri 33 38 seems inexcusable. In the Burdwan Division, correct results would naturally be looked for, but Bankura district gives a rate of 15 95, Serampore 28 68 Burdwan 19 43, and Howrah 19 95. Close to Calcutta as the last three districts are, much better results might be expected. It is evident that in this division, as in others, registration has not had the attention the great importance of the matter demands.

Of the 1,552,528 deaths recorded during the year 829,330 were males, 723,198 females. These figures represent an admittedly high death rate. For every 1000 females 1,146 males died—a ratio much in excess of that which obtains in England. We are told that "the difference of total mortality between Calcutta and other towns in Bengal amounts only to 1·22 per thousand of population but while Suri only registers a rate of 5 47 from gross neglect of registration, Jehanabad 5 04, Baduria 7 62, Ranaghat 6 33, Kuchtia 9 05, Sudhaim 9 36, and so on, it is idle to institute any reliable comparison. The excess of fever in mofussil towns and of casualties from "other causes" in Calcutta may be explained by the better diagnosis of death causes in the latter. A small-pox death-rate of 0 04 in Calcutta is creditable to the sanitary officers."

Here is a paragraph from Dr. Lidderdale's Report that is worth reproducing:—

Prices generally did not rule higher in 1887 than in 1886, or, the average of the

	Price per maund in 1887			Average price of the three preceding years			Difference in 1887			Price per maund in 1886			K. INCHES	
	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.	Inches.	Inches.
Common rice	1	12	8	2	6	10	0	10	2	2	1	3	60 05	64 65
Wheat	3	5	4	3	9	2	0	3	10	3	15	3		
Pulses	3	0	4	3	7	3	0	6	7	2	5	5		
Fish	6	14	8	7	4	1	0	5	5	7	4	11		

three preceding years, the marginal table but till means of distribution are complete in all districts, local conditions of climate and rainfall affecting crops will always in limited areas,

react on the health status of the people

*Report on Municipal Taxation and Expenditure in the Lower Provinces of Bengal, for the year 1887-88.* Calcutta: Printed at the Bengal Secretariat Press. 1888.

FROM the official Reports on Municipal Taxation and Expenditure in the Lower Provinces of Bengal for the year 1887-88, we gather that at the close of the said year the number of Municipalities was 141, against 138 in 1886-87. The towns of Tangail in the district of Mymensingh, Dinapore, Nizamat and Khagoul in the Patna Division, and Kissengunge in Purneah were constituted Municipalities. The Municipality of Goalundo, in the Furreedpore district, was abolished in September 1887, owing to the destruction of a portion of the town by the encroachment of the river Pudma. This necessitated the removal of the railway terminus, and the sub-divisional headquarters to Rajbari, a village in the neighbourhood. The question of the withdrawal of the town of Assensole from the operation of the Act, which has formed the subject of a long correspondence between Government and the East Indian Railway Company, was settled during the year under review. It has been decided to abolish the Municipality as soon as the sanction of the Government of India has been obtained to the provision of certain sanitary requirements of the town, at the Company's expense. The following is hopeful:—

The second general election of Commissioners under Act III. (B.C) of 1884 was held during the year on the expiry of the term of office of those elected in 1884. The table given in Appendix B shows the results of the elections, the number of registered voters in each ward, and the number of persons who actually recorded their votes. The figures show a very remarkable improvement over those of the bye elections held in the previous year. The percentage of actual voters to those entitled to vote was 33·8 against 20·5 in 1886-87. The remarks which have been recorded by Commissioners on the subject show, that the results of the present general election are everywhere more encouraging than those of the election of 1884, and that though in a few cases the attitude of the people is still apathetic, in the large majority of instances there has been a real advance in the interest shown in the elections.

Upon this subject the Commissioner of the Presidency Division, observes:—

"There are unmistakeable signs of a growing desire among the Hindu population to elect better *representative* men in the proper sense of the word than formerly. The late elections were certainly more numerous attended and more hotly contested than on the last occasion, and there is little doubt but that the members of the new Boards, having been chosen more on their own merits than formerly, will show a better disposition to work together for the common good in a temperate and conciliatory spirit than has hitherto in some instances been the case."

The Commissioner of Rajshahye writes:—

"A good deal of enthusiasm is said to have been exhibited in some places, but it was mainly amongst the educated classes. In the Rampore

Beauleah Municipality, the lower classes are reported to have shown undeniable signs that they are becoming alive to their rights and privileges, for in one ward they showed their independence by returning a butcher as Municipal Commissioner."

The Commissioner of Patna writes :—

"In almost all the Municipalities in which the elective system is in force, interest was displayed by the people in the election of their representatives. In some of the Municipalities, notably in Patna and Chupra, the seats were keenly contested."

Free choice as to a Chairman has been granted to nearly all Municipalities "now included in the second schedule." This grace is not vouchsafed to Calcutta, Patna, and Darjeeling. We are not told why; but we are told that Municipal Commissioners in other places exercise generally, as to this matter, a wise discretion. Are we to conclude that the *Pères conscripti* of Calcutta, Patna, and Darjeeling cannot be trusted to do likewise? Or are these communities too important to have their welfare risked by experiments?

Convictions were obtained in 81·2 per cent. of the cases tried before Municipal Commissioners, sitting as honorary Magistrates for the disposal of cases of nuisance, breach of conservancy rules, &c. The desirability of sanitary reforms is, as usual, preached. *Apròpos* of water supplies we are told :—

The Howrah water-works scheme is still under consideration; the Midnapore scheme, which is estimated to cost Rs. 3,30,000, is pending from want of funds; for Hooghly and Chinsurah, a scheme was prepared, costing about Rs. 3,59,000; and a similar scheme has been prepared for Cuttack to cost three lakhs, but they have both been abandoned as the money could not be found. It is hoped that the Howrah scheme will soon be carried out, but the difficulty in this case is to obtain a supply of water sufficiently pure to justify the expenditure which must be incurred on it.

The total Municipal revenue of the year amounted to Rs. 29,22,637, against Rs. 28,35,397 in 1886-87. We note that

The receipts under head "Conservancy and road-cleaning, sale proceeds of night-soil, and street refuse, &c.," show an increase of Rs. 5,953 over those for the preceding year, the total income coming up to Rs. 14,193. It was pointed out in the Government of India orders No. 95, dated 30th July 1887, that this source of income was capable of great expansion, and in other provinces, especially in the Punjab, yielded a considerable revenue. The Lieutenant-Governor has every confidence that this hitherto neglected source of municipal income will receive the careful attention of the Commissioners. In some districts, such as Hooghly and Monghyr, the question has not been neglected, and the Sanitary Commissioner has recently issued a circular to all Municipalities communicating instructions for the proper disposal of night-soil in shallow trenches. The Department of Agriculture has also not lost sight of the importance of the subject.

Receipts from tolls and ferries have steadily decreased during the last few years—generally speaking, from adequate causes; e. g., in Mozufferpore last year's decrease was due

mainly to the opening of the Akhara Ghât bridge over the Little Gunduk river, and in Serampore to a reduction in demands made at ferries. It is not a paradox to say that these reputed losses were veritably gains.

Upon the whole, the Lieutenant-Governor considers that there is evidence to show that the Act has worked satisfactorily, and that the Commissioners have as a body discharged their functions with intelligence, although here and there marked failures in administration have occurred, owing to party faction and the jealousies of individuals. This was conspicuously the case at Dacca, and the Magistrate of Hooghly found himself beset with similar hindrances to smooth and efficient working. The following words quoted from the Government Resolution are opportune and significant:—

The sense of public duty which leads men to subordinate their personal interests to the general welfare, is the gradual outcome of the growth of responsibility, which, it may be hoped, will be developed as experience is gained. The remarks of the Magistrate of Rungpore regarding the neglect of the Commissioners to take action for the revision of the assessments are also widely applicable. It is a matter of notoriety that the policy of Municipalities in India tends always, whenever possible, towards lightening the burden of the rate-payers in the matter of taxation, and it is no easy task for the executive authorities, by the exercise of judicious advice and encouragement, to apply the degree of pressure, without unnecessary and improper interference, which is required to enforce a vigorous administration in the assessment and collection of rates. But in view of the expenditure which it will be necessary for Municipalities to incur in respect of sanitation, it is now more incumbent than ever on all local bodies to examine carefully all their sources of income, and to avail themselves to the fullest extent of all opportunities for improvement.

*General Report on Public Instruction in Bengal for 1887-88.*

THE figures given in Indian Departmental Reports often appear to have been arrayed mainly with a view to the bewilderment of the uninitiated: the *profanum vulgus* might even be led by them to misconception, and a notion that their esoteric design is to throw dust in exotic eyes. It is puzzling for instance, to be told in last year's General Report on Public Instruction in Bengal that—owing chiefly to the transfer of educational funds to district Boards—the net Government expenditure on schools, &c, while showing an apparent decrease of Rs. 10,22,000, has, as a matter of fact, increased by Rs. 3,88,000. Whereas on another page it is stated that the net Government expenditure fell short of the estimate by Rs. 1,76,087, and the net receipts exceeded the estimate by Rs. 1,48,600. The first page of the Report informs us that under the head of public institutions there was an increase of 313 schools and 39,630 pupils, and under private institutions an

apparent increase of 5,827 schools and 51,213 pupils. It is satisfactory to be informed that "in all classes of Schools under private management receiving grants-in-aid, the fee-receipts increased by Rs. 99,793;" also, to find that the amount of their local income from endowments and subscriptions increased by Rs. 6,074.

The Report contains a chapter on the recommendations of the Education Commission. In manifold ways, and by divers authorities, they have already been vehemently threshed out, and we need not therefore say much about them. But we must take the opportunity heartily to endorse the Commission's verdict, that inspection in the higher educational grades is apt to tend towards incompleteness—fussiness. We note that the recommendation to reduce the inspecting staff has been followed to the extent, that vacancies caused by the death of Baboo Surat Chundra Das, Assistant Inspector of Rajshahye, and by the appointment of Baboo Dina Nath Sen to officiate as Inspector of the Eastern Circle, have not been filled up. Sir Alfred Croft considers the new arrangement to be "of doubtful value." Apropos of zeal for inspection duty, Sir Alfred himself is of opinion "that it does not follow that activity is in every case synonymous with efficient inspection. When, for example, 815 schools are visited in a tour of 244 days, or still more conspicuously, 743 schools in 200 days, it is impossible to resist the conclusion that the time of these officers would have been better employed if they had given more time to the examination of each school, and had not aimed at rushing through three or four schools in a day. Energy and activity are among the highest merits of an inspecting officer, but it has repeatedly been pointed out that they can be overdone. Thoroughly satisfactory work can be secured without rising to such extravagant figures as those just noticed, and I should be inclined to say that, exceptionally favourable circumstances apart, the most useful work would be done by an officer who was on tour for something like 250 days in the year, and inspected something like 500 schools in that time. At the same time it should be remembered that an officer may make a good show of schools inspected, when the number of schools actually visited by him is but small. An instance may be given from the Bhudruck sub-division of Balasore, where the Sub-Inspector has 945 schools under him. Of these he visited 5 more than once, 100 once, and 753 not at all. As he paid altogether 333 visits to schools, it follows that the 55 schools which he specially favoured received more than four visits each—a distribution which cannot be commended, and which, in the interests of the 753 neglected schools, appears to deserve the careful attention of the District Board."



As to the vexed case of the rival merits of chief Gurus and Pundits as inspecting machines, the balance of Departmental opinion is, we are told, strongly and incontestably in favour of the Pundits. The matter however has to be left for decision to District Boards. By the way, information afforded by Sir Alfred Croft's Mofussil subordinates, as to the working of District Boards, is referred to deprecatingly as of a "somewhat fragmentary character." But the fragmentariness seems to us natural enough. Instances of situations where the action of gregarious humanity is not influenced by its surroundings are rare. In the Mofussil not a few school Inspectors are either *ex officio* or elected members of local "Boards." As to that functional honour, Mr. Bellett suggests that "there is something to be said both for and against the presence of the Deputy Inspector on the Board. On the one hand, if he is a member, he can give invaluable assistance to the Board, both by way of information and by way of advice, without the delay and inconvenience of correspondence; and as an officer constantly travelling all over the district, he would, it may be supposed, be able to be of service in other matters besides education. On the other hand, there is the danger that by virtue of his superior knowledge, he might either have all the Board's educational work thrust upon him to the detriment of his regular duties, or (from a different point of view) be allowed to take command of the whole educational business of the Board, and from that position fight with and defy the Inspector, his superior officer, to the injury of discipline and the complete subversion of local self-government properly understood."

In connection with this subject it seems expedient to quote at length from Sir Alfred Croft's Report thus :—

"As to the general character of the work done by the District and Local Boards, it is too early yet to form any decided opinion. It was natural to suppose that at the outset they would take no very strong or independent line, but simply conform to the traditions and practices of the Department to whose duties they succeeded. It appears, however, that the Boards have not followed a uniform policy in educational matter. The Assistant Inspector of the Bhagalpore Division writes of them :—"During the short time they have been at work, there has been not a single instance of any friction between them and the Department; the suggestions and recommendations of the inspecting officers have been always duly considered and adopted, and the Inspector of Schools has been often consulted in important matters." Still, some inconvenience has been felt from delay in the despatch of business by the Boards. In the neighbouring division of Patna, a less confident note is heard. In the districts of Patna and Sarun, there have been no particular changes, and the working of the Board has been satisfactory. Of Gya, it is said that 'the Board has done nothing in connection with education that would look like its own work.' But of Shahabad—"it is a fact that the Shahabad District Board has not worked smoothly with the Department." The Inspector condemns the action of the

Chumparun Board on one point—'It has most unwisely, in my opinion, amalgamated cattle-pounds with pathsalas, and the teachers are charged with the management of these pounds in addition to their own duties. I may remark that the same policy has been followed in the districts Hooghly and Jessore, and that it has been strongly recommended for general adoption, on the ground that by thus increasing the emolument of the pound-keeper-Guru, you secure a better class of men for the work of instruction. In Orissa the working of these bodies has been watched with interest by the District Deputy Inspectors, who have given them all reasonable advice and assistance.' But in Balasore, considerable friction seems to have been caused by the presence on the Boards of certain members holding positions subordinate to the Deputy and Sub-Inspectors, on whose work they are thus enabled to sit in judgment. The difficulty is said to be intensified in Balasore by the rancorous party spirit which prevails in that district, and which finds such frequent expression in the vernacular papers. The Dacca Inspector remarks that even now there are some indications that the duties of District Boards will have to be modified before long; but he gives no more explicit intimation of his views. The District Board of Chittagong seems to have followed an independent course:—'All praise or blame,' writes the Deputy Inspector, 'for the manner in which it has managed its work is entirely its own, for it has little consulted the Education Department, and has not been much guided by it.' Complaints are also made of delay and other shortcomings; 'but,' the writer concludes, 'the Board has had only a year's trial; it should not be judged harshly yet; it is hoped that as it gains experience it will manage education as well as the Department, if it works in harmony with it.' In Tipperah, too, the Deputy Inspector observes that his opinion is not always asked for, or if asked for, not much regarded by the District Board; and again there are complaints of delay and also of partiality. Under the rules, the Boards are required to report their proceedings on certain matters and at certain stages to the Inspector, but not to any lower officer; and the Assistant Inspector remarks that he knows absolutely nothing of what is done by the Boards in the Chittagong Division. The Inspector of the Rajshahye Division finds that the District Boards take but a languid interest in educational matters, though he is not yet prepared to express a decided opinion as to the effects of the change. In the Burdwan and Presidency Divisions, there are no complaints of friction; though in the latter, occasional omissions and failure to comply with rules are noticed on the part of the Boards, especially in the matter of keeping the Inspector informed of their proceedings. The officer remarks that 'the District Boards are still in their infancy; . . . as they gain experience they will be in a better position to supervise primary education,' though it may be gathered that as to secondary education he is less confident.

"The District Boards have generally furnished independent reports of their educational work for the year, though in some instances it is observed that they have adopted bodily the report of the Deputy Inspector."

To the man with eyes to see, and a heart not yet dead, the following quotation from the Report is melancholy reading:—

"The increase in the number of colleges, considerable as it is, falls very far short of the increase in the number of students, which far surpasses the experience of former years. In the five years from 1883 to 1887, the total increase fell short of 500; in the year 1887-88 it exceeded 1,200. This remarkable increase is fully explained by the results of the Entrance Examination of 1887, when 2,409 candidates, or 69 per cent. of the number presented, passed the examination, against 913, or 29 per cent. in the previous year. The strength of the colleges varies with the supply of the raw material thus provided. The increase is spread over institutions of all

classes—396 in Government colleges, 185 in aided, and 748 in unaided institutions. Classified otherwise, the students in Calcutta have increased by 651 (2,182 to 2,833); those outside Calcutta by 628 (1,033 to 1,661.) In the town of Dacca alone there is an increase of 173 students—57 in the Government and 116 in the private college.

The Bhimpur Sonthal Training School is under the American Baptist Mission. It had on its rolls on the 31st March last 105 pupils, of whom 72 were males and 33 females. No tuition-fee is charged; and about 30 pupils, coming from distant places, receive daily allowances of a few pice. Neither girls nor boys proved successful at the examinations they were sent up for.

The work of instruction in zenanas is entirely in the hands of agencies conducted by four Missionary bodies. The number of teachers employed under each agency, and the number of pupils receiving instruction under it, are given below. For return purposes, it has been the practice to count each teacher as an upper primary school, and they are so included in the 274 upper primaries mentioned in the first paragraph of this section. The expenditure on the 99 zenana schools was Rs. 51,980, against Rs. 53,736 in the previous year; of which Rs. 14,704 were paid from provincial revenues, Rs. 4,057 from fees, and Rs. 33,219 from subscriptions and other sources:—

NAMES OF AGENCIES.	1886-87.		1887-88	
	Teachers	Pupils	Teachers	Pupils
1. American Mission Zenana Agency	73	1,306	71	1,435
2. Church of England ditto	17	90	14	196
3. Church of Scotland ditto	7	37	7	58
4. Free Church ditto	13	48	7	39
Total	110	1,481	99	1,728

The pupils increased by 247, though there was a decrease of 11 schools, or more strictly of 11 teachers; who have been transferred from zenana work to the charge of girls' schools under the several Missions. Some explanation of this character not having been furnished in the Inspector's report for the previous year, it was erroneously believed and stated, that the operations of the Free Church Zenana Mission had suffered a contraction. A similar misconception arose in connexion with the Church of Scotland Schools, and is accounted for in the same way. In the American Mission, the zenanas proper and the schools for little girls are not separately shown, all being returned as zenana schools; but it is understood that the Mission maintains 14 girls' schools in different parts of the town and suburbs, and eight at Rajpur in the 24-Pergunnahs. If the teachers of these 22 schools be separated, the figures for zenana schools proper under the Mission would be greatly reduced.

To convey a correct idea of the work done by each Mission, it is essential that the zenanas proper and the schools for little girls should be carefully distinguished.

The operations of the zenana agencies are not confined to the town, but extend to the suburbs and to several places in the 24-Pergunnahs district. The duties of the teachers consist in visiting a certain number of houses once, twice, or thrice a week, and in teaching the inmates needle-work in addition to reading, writing and arithmetic in Bengali or English. In many houses ladies of mature age learn needle-work alone from these teachers. Generally speaking it may be said that progress is being made in the matter of female education in Bengal, though not quick progress. Perhaps that is all the better in the long run for the object aimed at. Girton and Newnham, the Lady Margaret and Somerville Halls, were not built in a day. If they had been, we more than doubt whether they could have become such centres of light and leading for the feminine world as they now are.

The invested funds of the Bruce Institution now amount to about Rs. 6,50,000, yielding an annual income of nearly Rs. 26,000. Under orders from the High Court of Calcutta, it is administered by a body of twelve Governors, five *ex-officio*, and seven others representing different denominations and interests. Up to the 31st March 1888, two elections had been held, and 79 girls admitted to the foundation. The great majority of these are educated at the Calcutta Free School, and the Loretto Convent at Entally.

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*Report on the Administration of the N.-W. Provinces and Oudh, for the year ending 31st March 1888.*

IT goes without saying that under such able guiding hands as those of Sir Alfred Lyall and Sir Auckland Colvin, affairs went well last year in these Provinces, in spite of cholera epidemics and much fever. These are malarial sun-spots, not affecting the colour of the sun, which are only to be remedied by drastic sanitary measures, for which the Local Self-Government evangel is not yet ripe.

In the N.-W. P. and Oudh Administration Report the returns of railway-borne traffic exhibit a figurative falling off; but railway returns are not worth much, except as figures. The fact remains that in the N.-W. P. and Oudh, trade centres are being developed, trade adaptabilities assimilated or originated, as occasion requires.

As to N.-W. P. Railways, there was no change in administration through the control had passed from Provincial to Imperial

hands : a mere alteration of names and signboards, signifying nothing. As to canals, we learn that expenditure was incurred chiefly on distributaries, a decidedly commendable feature in canal management. The displacement of cash and credit balances in this connection may possibly be accounted for by the statement, that "the rainfall for the year was above the average, and there was (consequently) no great demand for canal irrigation." The percentage of acreage irrigated was 11·3 per cent. less than in the previous year ; but "12·7 per cent. less than the average for the last ten years." "The gross revenue realized during the year was Rs. 53,56,135, and the net revenue Rs. 27,85,495."

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*Report on the Administration of the Punjab and its Dependencies  
for 1886-87.*

IN official eyes, the principal event, of the events epitomized in this Blue Book, was the completion of the distributaries of the Sirhind Canal ; but native opinion probably holds it a much more important tide-mark on the year's record, that the Rajah of Mandi received for the first time the honour of a return visit from the Viceroy. It is of course gratifying to the British lion to be reminded, in connection with the North-West frontier, that the aliwals have been nominally under blockade for more than ten years, although the blockade has been practically allowed to lapse, and the scores against the tribe, and Arsalā Khan its Chief, are still unsettled.

Throughout the summer of 1887 there were "one or two" border raids. Details regarding the Blagrian of July 1887, the Oldigraun raid of January 1888, and the attack on the party of Major Battye and Captain Urmston, which resulted in the death of those officers, "belong to the history of a period later than that now under review"—and will be made public probably when public interest in their sad fate has been superseded by events of more immediate moment.

Some of the Chiefs of Swat or their representatives were received in Durbar by the Viceroy in the autumn of 1887, and several of them have been frequent in their professions of friendship to the British Government. They have received the usual replies to the effect that the British Government desires them to remain independent. From time to time rumours are current of intentions on the part of His Highness the Amir to assert his influence more strongly in these territories ; but in the present state of Afghanistan, it seems highly improbable that any practical steps will be taken in this direction."

During 1886-87, settlements were in progress in Karnal, Umballa, Northern Umballa and Perozepore. The Rawalpindi settlement was completed, with the result of an increase in assessments of between  $2\frac{1}{2}$  and  $2\frac{3}{4}$  lakhs of rupees, payable for the most part to Government Land Revenue collections for the year amounted to Rs. 2,18,56,920 ; half a lakh less than in the previous year, 1885-86.

The long pending question of the strength and cost of municipal police was decided during the year. The strength was increased and the proportion of 1st grade constables fixed at two-thirds of the total number. The sanctioned strength of the Police under Act V. of 1861 stands at little more than 20,000—a weak body enough where the requirements of the Province and the character of its population are considered. Statistics show that there is one policeman to 502 square miles and to 902 souls of the population. It has been for some time in contemplation to raise the strength of the police in certain localities found to be specially affected by crime by means of levying the increased cost on the offending villages. This is an expansion of the old system of punitive police posts.

Punjab statistics under "Police" and "Criminal Justice" would seem to point to a serious increase of crime in the ciewhile pattern province. We are told that "in the three years for 1884 to 1886, there have been increases amongst cases admitted to have occurred principally under the heads of "Murder," "Attempts at Murder," "Culpable Homicide," "Burglary," "Cattle Theft" and "Simple Theft," and while the offences admitted to have occurred thus rose from 98,890 in 1884 to 101,357 in 1885 and 103,372 in 1886, the number of cases brought to trial actually declined from 80,782 in 1884 to 79,634 in 1886. It is acknowledged with regret that the power of the Magistrates, the Police and the Criminal Courts to repress crime seems to be diminishing.

"Native Magistrates are too ready to acquit or pass inadequate sentences. The Courts are often hampered by technicalities of procedure, or fear that convictions will not successfully run the gauntlet of appeal.

"Legal practitioners are becoming more numerous, while on the other hand there is a great want of public prosecutors to represent the Crown. These and other circumstances connected with the spread of crime in the Provinces are receiving the very serious consideration of the Lieutenant-Governor, and it is hoped that before long measures will be introduced leading to some improvement."

In one and the same para we are told that, by dint of great economy, the Inspector-General of Punjab Prisons has been able to reduce the contingency charges which were Rs. 79,156

in 1882, to Rs. 40,664 in 1886, and that the rate of mortality in the Lahore Central Jail was "grievously high." One would like to know whether this is a mere statistical accident, or a legitimate development of cause and effect.

The appellate work of District Courts is said to have been generally performed with promptitude, "the average duration of appeals being 30 days." At the close of 1886 there were "heavy arrears" pending in the Delhi, Jullundur, Hoshiarpur, Amritsar, and Jhelum Districtal Courts. With reference to the Civil business of the Chief Court, we are told that appeals from lower Courts rose from 906 in 1885 to 2,671 in the following year. Thus is wisdom justified of its children, and the reign of the Vakeel vindicated.

The income from Registration was, during the year, "Rs. 1,92,859, leaving, after deduction of expenditure, a surplus of Rs. 90,131, the largest on record. As compared with the the previous year, the number of documents registered increased slightly, the increase being limited, however, to the compulsory class. But, the total was below the average of the five years ending 1876-77 as well as of the five years ending 1881-82. Notwithstanding this decrease in the number of registered documents during the past, as compared with previous periods of five years, the receipts from all sources are considerably above former averages". Here is a more interesting para. :—

The Lahore Veterinary School continues to do good work. Efforts have lately been made to give the instruction there imparted as practical a character as possible. The appointment of an additional Professor is an admitted want, and it is hoped that the proposals made for the purpose of strengthening the staff will now shortly be sanctioned.

There can be no doubt that the efforts made to improve the breed of horses in the Punjab are appreciated by the people, and have succeeded well. The attendance at Horse Fairs did not fall off notwithstanding the prolonged drought. No one, who has had opportunities of travelling about the Punjab during the past 10 or 15 years, can have failed to have been struck by the great, if gradual, improvement which has taken place in the young stock of the Province. What with the Biluch mares and the Shahpur mares, and other good strains in other localities, the Province has good opportunities in the matter of horse-breeding, and the subject will, no doubt, continue to receive the attention it deserves, both from leading men amongst the people and Government officials.

We rejoice to hear that in the year under report a large increase took place in the number of students who had advanced beyond the most elementary stages, and that the income from school fees greatly improved. On the other hand, the number of boys in the Lower Primary stage decreased. It is considered noticeable that whereas there were 14,160 boys learning English in Secondary Schools in 1885, there were on the first of April of the following year 16,552.







